

**ALCOHOLIC BEVERAGE CONTROL**

**AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Peter C. Knudson**

House Sponsor: Scott L Wyatt

---

---

**LONG TITLE**

**General Description:**

This bill modifies the Alcoholic Beverage Control Act.

**Highlighted Provisions:**

This bill:

- ▶ provides for severability;
- ▶ modifies and adds definitions;
- ▶ addresses terms of commissioners;
- ▶ addresses appointment and removal of the director;
- ▶ addresses purchases of alcoholic beverages by the department;
- ▶ addresses disciplinary proceedings and judicial review of those proceedings;
- ▶ adjusts markups by the department and diverts a portion of certain gross sales revenues to the school lunch program;
- ▶ repeals the wine and liquor tax;
- ▶ addresses standards for attire, conduct, and entertainment on premises of licensees and permittees;
- ▶ addresses minors including:
  - addressing hiring minors;
  - addressing admitting minors onto premises; and
  - addressing unlawful acts by minors;
- ▶ addresses certain licensees and permittees including on-premise banquet licenses, on-premise beer retailer, and those holding a permit for industrial or manufacturing

use;

- addresses alcohol-related compliance check investigations;
- provides for suspension of driving privileges;
- addresses advertising;
- removes redundant or out-of-date language; and
- makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill has multiple effective dates.

**Utah Code Sections Affected:**

**AMENDS:**

- 32A-1-102**, as last amended by Chapter 314, Laws of Utah 2003
- 32A-1-105**, as last amended by Chapter 342, Laws of Utah 2006
- 32A-1-106**, as last amended by Chapter 14, Laws of Utah 2006
- 32A-1-108**, as last amended by Chapter 268, Laws of Utah 2004
- 32A-1-116**, as last amended by Chapter 314, Laws of Utah 2003
- 32A-1-119**, as last amended by Chapters 14 and 162, Laws of Utah 2006
- 32A-1-120**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 32A-1-122**, as last amended by Chapter 314, Laws of Utah 2003
- 32A-1-401**, as last amended by Chapter 342, Laws of Utah 2006
- 32A-4-102**, as last amended by Chapter 314, Laws of Utah 2003
- 32A-4-106**, as last amended by Chapter 268, Laws of Utah 2004
- 32A-4-206**, as last amended by Chapter 268, Laws of Utah 2004
- 32A-4-303**, as last amended by Chapter 268, Laws of Utah 2004
- 32A-4-307**, as last amended by Chapter 268, Laws of Utah 2004
- 32A-4-401**, as last amended by Chapter 152, Laws of Utah 2005
- 32A-4-402**, as last amended by Chapter 152, Laws of Utah 2005

58        **32A-4-406**, as last amended by Chapter 152, Laws of Utah 2005  
59        **32A-5-102**, as last amended by Chapter 268, Laws of Utah 2004  
60        **32A-5-107**, as last amended by Chapter 268, Laws of Utah 2004  
61        **32A-6-301**, as last amended by Chapter 314, Laws of Utah 2003  
62        **32A-6-302**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
63        **32A-7-106**, as last amended by Chapter 268, Laws of Utah 2004  
64        **32A-8-102**, as last amended by Chapter 314, Laws of Utah 2003  
65        **32A-8-106**, as last amended by Chapter 314, Laws of Utah 2003  
66        **32A-8-505**, as last amended by Chapter 268, Laws of Utah 2004  
67        **32A-10-101**, as last amended by Chapter 342, Laws of Utah 2006  
68        **32A-10-102**, as last amended by Chapter 314, Laws of Utah 2003  
69        **32A-10-103**, as enacted by Chapter 342, Laws of Utah 2006  
70        **32A-10-202**, as last amended by Chapter 268, Laws of Utah 2004  
71        **32A-10-206**, as last amended by Chapter 268, Laws of Utah 2004  
72        **32A-10-306**, as last amended by Chapter 268, Laws of Utah 2004  
73        **32A-12-209**, as last amended by Chapter 218, Laws of Utah 2004  
74        **32A-12-213**, as last amended by Chapter 268, Laws of Utah 2004  
75        **32A-12-401**, as last amended by Chapter 314, Laws of Utah 2003  
76        **32A-14a-102**, as renumbered and amended by Chapter 197, Laws of Utah 2000  
77        **53-3-219**, as last amended by Chapter 161, Laws of Utah 2004  
78        **62A-15-401**, as last amended by Chapter 342, Laws of Utah 2006  
79        **76-9-701**, as last amended by Chapter 365, Laws of Utah 1997  
80        **78-3a-506**, as repealed and reenacted by Chapter 365, Laws of Utah 1997  
81    ENACTS:  
82        **32A-1-601**, Utah Code Annotated 1953  
83        **32A-1-602**, Utah Code Annotated 1953  
84        **32A-1-603**, Utah Code Annotated 1953  
85        **32A-1-604**, Utah Code Annotated 1953

86           **32A-12-209.5**, Utah Code Annotated 1953

87   REPEALS:

88           **59-16-101**, as last amended by Chapter 2, Laws of Utah 1988

89           **59-16-102**, as last amended by Chapter 299, Laws of Utah 1998

90   

---

---

  
91   *Be it enacted by the Legislature of the state of Utah:*

92           Section 1. Section **32A-1-102** is amended to read:

93           **32A-1-102. Application of title -- Severability.**

94           (1) This title governs alcoholic beverage control in this state except where ~~[local~~  
95 ~~authorities are]~~ a local authority is expressly granted regulatory control by this title.

96           (2) Nothing in this title precludes a local [authorities] authority from regulating the sale,  
97 storage, service, or consumption of alcoholic beverages if that regulation does not conflict with  
98 ~~[the provisions of]~~ this title.

99           (3) If any provision of this title or the application of any provision to any person or  
100 circumstance is held invalid, the remainder of this title shall be given effect without the invalid  
101 provision or application. The provisions of this title are severable.

102           Section 2. Section **32A-1-105** is amended to read:

103           **32A-1-105. Definitions.**

104           As used in this title:

105           (1) "Airport lounge" means a place of business licensed to sell alcoholic beverages, at  
106 retail, for consumption on its premises located at an international airport with a United States  
107 Customs office on the premises of the international airport.

108           (2) "Alcoholic beverages" means "beer" and "liquor" as the terms are defined in this  
109 section.

110           (3) (a) "Alcoholic products" means all products that:

111           (i) contain:

112           (A) at least 63/100 of 1% of alcohol by volume; or

113           (B) at least 1/2 of 1% by weight; and

(ii) are obtained by fermentation, infusion, decoction, brewing, distillation, or any other process that uses any liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount greater than the amount prescribed in Subsection (3)(a)(i).

(b) "Alcoholic products" does not include any of the following common items that otherwise come within the definition of alcoholic products:

- (i) extracts;
- (ii) vinegars;
- (iii) ciders;
- (iv) essences;
- (v) tinctures;
- (vi) food preparations; or
- (vii) over-the-counter drugs and medicines.

(4) "Bar" means a counter or similar structure:

(a) at which alcoholic beverages are:

- (i) stored; or
- (ii) dispensed; or
- (b) from which alcoholic beverages are served.

(5) (a) "Beer" means any product that:

(i) contains 63/100 of 1% of alcohol by volume or 1/2 of 1% of alcohol by weight, but not more than 4% of alcohol by volume or 3.2% by weight; and

(ii) is obtained by fermentation, infusion, or decoction of any malted grain.

(b) Beer may or may not contain hops or other vegetable products.

(c) Beer includes a product that:

(i) contains alcohol in the percentages described in Subsection (5)(a); and

(ii) is referred to as:

- (A) malt liquor;
- (B) malted beverages; or
- (C) malt coolers.

- 142 (6) (a) "Beer retailer" means ~~[any]~~ a business ~~[establishment]~~ that is:
- 143 (i) engaged, primarily or incidentally, in the retail sale of beer to ~~[public]~~ patrons,
- 144 whether for consumption on or off the ~~[establishment's]~~ business premises; and
- 145 (ii) licensed to sell beer by:
- 146 (A) the commission;
- 147 (B) a local authority; or
- 148 (C) both the commission and a local authority.
- 149 (b) ~~(i)~~ "Off-premise beer retailer" means a ~~[general food store or similar]~~ business that is
- 150 engaged in the retail sale of beer to ~~[public]~~ patrons for consumption off the beer retailer's
- 151 premises.
- 152 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 153 (c) ~~[(i)]~~ "On-premise beer retailer" means ~~[any beer retailer engaged, primarily or~~
- 154 ~~incidentally,]~~ a business that is engaged in the sale of beer to ~~[public]~~ patrons for consumption
- 155 on the beer retailer's premises, regardless of whether the business sells beer for consumption off
- 156 the beer retailer's premises.
- 157 ~~[(ii) "On-premise beer retailer" includes a tavern.]~~
- 158 (7) "Billboard" means any public display used to advertise including:
- 159 (a) a light device;
- 160 (b) a painting;
- 161 (c) a drawing;
- 162 (d) a poster;
- 163 (e) a sign;
- 164 (f) a signboard; or
- 165 (g) a scoreboard.
- 166 (8) "Brewer" means any person engaged in manufacturing beer.
- 167 (9) "Cash bar" means the service of alcoholic beverages:
- 168 (a) at:
- 169 (i) a banquet; or

- 170 (ii) a temporary event for which a permit is issued under this title; and  
171 (b) if an attendee at the banquet or temporary event is charged for the alcoholic  
172 beverage.
- 173 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by  
174 a bus company to a group of persons pursuant to a common purpose:
- 175 (a) under a single contract;  
176 (b) at a fixed charge in accordance with the bus company's tariff; and  
177 (c) for the purpose of giving the group of persons the exclusive use of the bus and a  
178 driver to travel together to a specified destination or destinations.
- 179 (11) "Church" means a building:
- 180 (a) set apart for the purpose of worship;  
181 (b) in which religious services are held;  
182 (c) with which clergy is associated; and  
183 (d) which is tax exempt under the laws of this state.
- 184 (12) "Club" and "private club" means any of the following organized primarily for the  
185 benefit of its members:
- 186 (a) a social club;  
187 (b) a recreational association;  
188 (c) a fraternal association;  
189 (d) an athletic association; or  
190 (e) a kindred association.
- 191 (13) "Commission" means the Alcoholic Beverage Control Commission.
- 192 (14) "Department" means the Department of Alcoholic Beverage Control.
- 193 (15) "Distressed merchandise" means any alcoholic beverage in the possession of the  
194 department that is saleable, but for some reason is unappealing to the public.
- 195 ~~[(16) "General food store" means any business establishment primarily engaged in  
196 selling food and grocery supplies to public patrons for off-premise consumption.]~~
- 197 ~~[(17)]~~ (16) "Guest" means a person accompanied by an active member or visitor of a

198 club who enjoys only those privileges derived from the host for the duration of the visit to the  
199 club.

200 ~~[(18)]~~ (17) (a) "Heavy beer" means any product that:

201 (i) contains more than 4% alcohol by volume; and

202 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.

203 (b) "Heavy beer" is considered "liquor" for the purposes of this title.

204 ~~[(19)]~~ (18) "Hosted bar" means the service of alcoholic beverages:

205 (a) without charge; and

206 (b) at a:

207 (i) banquet; or

208 (ii) privately hosted event.

209 ~~[(20)]~~ (19) "Identification card" means the identification card issued under Title 53,  
210 Chapter 3, Part 8, Identification Card Act.

211 ~~[(21)]~~ (20) "Interdicted person" means a person to whom the sale, gift, or provision of  
212 an alcoholic beverage is prohibited by:

213 (a) law; or

214 (b) court order.

215 ~~[(22)]~~ (21) "Intoxicated" means that to a degree that is unlawful under Section  
216 76-9-701 a person is under the influence of:

217 (a) an alcoholic beverage;

218 (b) a controlled substance;

219 (c) a substance having the property of releasing toxic vapors; or

220 (d) a combination of Subsections ~~[(22)]~~ (21)(a) through (c).

221 ~~[(23)]~~ (22) "Licensee" means any person issued a license by the commission to sell,  
222 manufacture, store, or allow consumption of alcoholic beverages on premises owned or  
223 controlled by the person.

224 ~~[(24)]~~ (23) "Limousine" means any motor vehicle licensed by the state or a local  
225 authority, other than a bus or taxicab:



(a) in which the driver and passengers are separated by a partition, glass, or other barrier; and

(b) that is provided by a company to an individual or individuals at a fixed charge in accordance with the company's tariff for the purpose of giving the individual or individuals the exclusive use of the limousine and a driver to travel to a specified destination or destinations.

~~[(25)]~~ (24) (a) "Liquor" means alcohol, or any alcoholic, spirituous, vinous, fermented, malt, or other liquid, or combination of liquids, a part of which is spirituous, vinous, or fermented, and all other drinks, or drinkable liquids that contain more than 1/2 of 1% of alcohol by volume and is suitable to use for beverage purposes.

(b) "Liquor" does not include any beverage defined as a beer, malt liquor, or malted beverage that has an alcohol content of less than 4% alcohol by volume.

~~[(26)]~~ (25) "Local authority" means:

(a) the governing body of the county if the premises are located in an unincorporated area of a county; or

(b) the governing body of the city or town if the premises are located in an incorporated city or a town.

~~[(27)]~~ (26) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

~~[(28)]~~ (27) "Member" means a person who, after paying regular dues, has full privileges of a club under this title.

~~[(29)]~~ (28) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for any ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including any leased facility.

(b) "Military installation" does not include any facility used primarily for:

(i) civil works;

(ii) rivers and harbors projects; or

(iii) flood control projects.

~~[(30)]~~ (29) "Minor" means any person under the age of 21 years.

(30) "Nude," "nudity," or "state of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

(31) "Outlet" means a location other than a state store or package agency where alcoholic beverages are sold pursuant to a license issued by the commission.

(32) "Package" means any of the following containing liquor:

(a) a container;

(b) a bottle;

(c) a vessel; or

(d) other receptacle.

(33) "Package agency" means a retail liquor location operated under a contractual agreement with the department, by a person other than the state, who is authorized by the commission to sell package liquor for consumption off the premises of the agency.

(34) "Package agent" means any person permitted by the commission to operate a package agency pursuant to a contractual agreement with the department to sell liquor from premises that the package agent shall provide and maintain.

(35) "Permittee" means any person issued a permit by the commission to perform acts or exercise privileges as specifically granted in the permit.

(36) "Person" means any individual, partnership, firm, corporation, limited liability company, association, business trust, or other form of business enterprise, including a receiver or trustee, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context.

(37) "Premises" means any building, enclosure, room, or equipment used in connection with the sale, storage, service, manufacture, distribution, or consumption of alcoholic products, unless otherwise defined in this title or in the rules adopted by the commission.

(38) "Prescription" means a writing in legal form, signed by a physician or dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

(39) (a) "Privately hosted event" or "private social function" means a specific social, business, or recreational event for which an entire room, area, or hall has been leased or rented, in advance by an identified group, and the event or function is limited in attendance to people who have been specifically designated and their guests.

(b) "Privately hosted event" and "private social function" does not include events or functions to which the general public is invited, whether for an admission fee or not.

(40) "Proof of age" means:

(a) an identification card;

(b) an identification that:

(i) is substantially similar to an identification card;

(ii) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(iii) includes date of birth; and

(iv) has a picture affixed;

(c) a valid driver license certificate that:

(i) includes date of birth;

(ii) has a picture affixed; and

- 310 (iii) is issued:
- 311 (A) under Title 53, Chapter 3, Uniform Driver License Act; or
- 312 (B) in accordance with the laws of the state in which it is issued;
- 313 (d) a military identification card that:
- 314 (i) includes date of birth; and
- 315 (ii) has a picture affixed; or
- 316 (e) a valid passport.
- 317 (41) (a) "Public building" means any building or permanent structure owned or leased
- 318 by the state, a county, or local government entity that is used for:
- 319 (i) public education;
- 320 (ii) transacting public business; or
- 321 (iii) regularly conducting government activities.
- 322 (b) "Public building" does not mean or refer to any building owned by the state or a
- 323 county or local government entity when the building is used by anyone, in whole or in part, for
- 324 proprietary functions.
- 325 (42) "Representative" means an individual who is compensated by salary, commission,
- 326 or any other means for representing and selling the alcoholic beverage products of a
- 327 manufacturer, supplier, or importer of liquor, wine, or heavy beer.
- 328 (43) "Residence" means the person's principal place of abode within Utah.
- 329 (44) "Restaurant" means any business establishment:
- 330 (a) where a variety of foods is prepared and complete meals are served to the general
- 331 public;
- 332 (b) located on a premises having adequate culinary fixtures for food preparation and
- 333 dining accommodations; and
- 334 (c) that is engaged primarily in serving meals to the general public.
- 335 (45) "Retailer" means any person engaged in the sale or distribution of alcoholic
- 336 beverages to the consumer.
- 337 (46) (a) "Sample" includes:

(i) a department sample; and

(ii) an industry representative sample.

(b) "Department sample" means liquor, wine, and heavy beer that has been placed in the possession of the department for testing, analysis, and sampling.

(c) "Industry representative sample" means liquor, wine, and heavy beer that has been placed in the possession of the department for testing, analysis, and sampling by local industry representatives on the premises of the department to educate the local industry representatives of the quality and characteristics of the product.

(47) (a) "School" means any building used primarily for the general education of minors.

(b) "School" does not include:

(i) a nursery school;

(ii) an infant day care center; or

(iii) a trade or technical school.

(48) "Sell," "sale," and "to sell" means any transaction, exchange, or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value, or by any means or under any pretext is promised or obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or employee, unless otherwise defined in this title or the rules made by the commission.

(49) "Seminude," "seminudity," or "state of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(50) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a class D private club as defined in Subsection 32A-5-101(3); or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection (50)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated:

(i) an employee of the licensee described in Subsection (50)(b);

(ii) an independent contractor of the licensee described in Subsection (50)(b);

(iii) an agent of the licensee described in Subsection (50)(b); or

(iv) otherwise of the licensee described in Subsection (50)(b).

~~[(49)]~~ (51) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer and heavy beer per year.

~~[(50)]~~ (52) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.

~~[(51)]~~ (53) (a) "State label" means the official label designated by the commission affixed to all liquor containers sold in the state.

(b) "State label" includes the department identification mark and inventory control number.

~~[(52)]~~ (54) (a) "State store" means a facility for the sale of package liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by state employees.

(b) "State store" does not apply to any:

(i) licensee;

(ii) permittee; or

- 394 (iii) package agency.
- 395 [~~(53)~~] (55) "Supplier" means any person selling alcoholic beverages to the department.
- 396 [~~(54)~~] (56) (a) "Tavern" means any business establishment that is:
- 397 (i) engaged primarily in the retail sale of beer to public patrons for consumption on the
- 398 establishment's premises; and
- 399 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.
- 400 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the
- 401 revenue of the sale of food, although food need not be sold in the establishment:
- 402 (i) a beer bar;
- 403 (ii) a parlor;
- 404 (iii) a lounge;
- 405 (iv) a cabaret; or
- 406 (v) a nightclub.
- 407 [~~(55)~~] (57) "Temporary domicile" means the principal place of abode within Utah of a
- 408 person who does not have a present intention to continue residency within Utah permanently or
- 409 indefinitely.
- 410 [~~(56)~~] (58) "Unsaleable liquor merchandise" means merchandise that:
- 411 (a) is unsaleable because the merchandise is:
- 412 (i) unlabeled;
- 413 (ii) leaky;
- 414 (iii) damaged;
- 415 (iv) difficult to open; or
- 416 (v) partly filled;
- 417 (b) is in a container:
- 418 (i) having faded labels or defective caps or corks;
- 419 (ii) in which the contents are:
- 420 (A) cloudy;
- 421 (B) spoiled; or

(C) chemically determined to be impure; or

(iii) that contains:

(A) sediment; or

(B) any foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

~~[(57)]~~ (59) "Visitor" means an individual that in accordance with Section 32A-5-107 holds limited privileges in a private club by virtue of a visitor card.

~~[(58)]~~ (60) "Warehouser" means any person, other than a licensed manufacturer, engaged in the importation for sale, storage, or distribution of liquor regardless of amount.

~~[(59)]~~ (61) "Wholesaler" means any person engaged in the importation for sale, or in the sale of beer in wholesale or jobbing quantities to retailers, other than a small brewer selling beer manufactured by that brewer.

~~[(60)]~~ (62) (a) "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or any other like substance, whether or not other ingredients are added.

(b) "Wine" is considered "liquor" for purposes of this title, except as otherwise provided in this title.

Section 3. Section **32A-1-106** is amended to read:

**32A-1-106. Alcoholic Beverage Control Commission -- Membership -- Oaths and bond -- Per diem -- Offices -- Removal -- Meetings.**

(1) The Alcoholic Beverage Control Commission shall act as a governing board over the Department of Alcoholic Beverage Control.

(2) (a) The commission is composed of five part-time commissioners appointed by the governor with the consent of the Senate.

(b) No more than three commissioners may be of the same political party.

(3) (a) Except as required by Subsection (3)(b), as terms of current ~~[commission members]~~ commissioners expire, the governor shall appoint each new ~~[member]~~ commissioner or reappointed ~~[member]~~ commissioner to a four-year term.



(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of ~~[commission members are staggered so that approximately half of the commission is appointed every two years]~~ no more than two commissioners expire in a fiscal year.

(4) When a vacancy occurs in the ~~[membership]~~ commission for any reason, the replacement shall be appointed for the unexpired term with the consent of the Senate.

(5) Each commissioner shall qualify by taking the oath of office and by giving bond to the state for faithful performance of duties in an amount determined by the Division of Finance, and in a form approved by the attorney general. The bond premium shall be paid by the state.

(6) (a) ~~[Members shall receive no]~~ A commissioner may not receive compensation or benefits for ~~[their]~~ the commissioner's services, but may receive per diem and expenses incurred in the performance of the ~~[member's]~~ commissioner's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) ~~[Members]~~ A commissioner may decline to receive per diem and expenses for ~~[their]~~ the commissioner's service.

(7) (a) The commission shall elect one of its members to serve as chair, another to serve as vice chair, and other commission officers as it considers advisable, all of whom shall serve at the pleasure of the commission.

(b) All ~~[members of]~~ commissioners on the commission have equal voting rights on all commission matters when in attendance at a commission meeting.

(c) Three ~~[members]~~ commissioners of the commission is a quorum for conducting commission business.

(d) A majority vote of the quorum present is required for any action to be taken by the commission.

(8) (a) (i) The governor may remove any commissioner from office for cause after a public hearing conducted by the governor or by an impartial hearing examiner appointed by the governor to conduct the hearing.

(ii) The commissioner shall receive written notice of the date, time, and place of the

hearing along with the alleged grounds for the removal at least ten days before the hearing. The commissioner shall have the opportunity to attend the hearing, present witnesses and other evidence, and confront and cross examine witnesses.

(b) Following the hearing, written findings of fact and conclusions of law shall be prepared by the person conducting the hearing and a copy served upon the commissioner. If the hearing is before a hearing examiner, the hearing examiner shall also issue a written recommendation to the governor.

(c) The commissioner shall have five days to file written objections to the recommendation before the governor issues a final order. The governor's order shall be in writing and served upon the commissioner.

(9) (a) The commission shall meet at least monthly, but may hold other meetings at times and places as scheduled by the commission, by the chair, or by any three commissioners upon filing a written request for a meeting with the chair.

(b) Notice of the time and place of each commission meeting shall be given to each commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public Meetings Act. All commission meetings shall be open to the public, except those meetings or portions of meetings that are closed by the commission as authorized by Sections 52-4-204 and 52-4-205.

Section 4. Section **32A-1-108** is amended to read:

**32A-1-108. Director of alcoholic beverage control.**

(1) (a) The commission by a vote of four of the five commissioners, with the approval of the governor, shall appoint a director of alcoholic beverage control who is the administrative head of the department.

(b) The director serves at the pleasure of the commission, except that the director may only be removed from office by a vote of four commissioners.

~~[(b)]~~ (c) The director may not be a member of the commission.

~~[(c)]~~ (d) The director shall:

(i) be qualified in administration ~~[and]~~;

506           (ii) be knowledgeable by experience and training in the field of business management;  
507 and ~~[shall]~~

508           (iii) possess any other qualifications prescribed by the commission.

509           ~~[(2) (a) The director shall qualify by:]~~

510           ~~[(i) taking the oath of office; and]~~

511           ~~[(ii) giving a bond for the faithful performance of the director's duties in an amount~~  
512 ~~determined by the Division of Finance and in form approved by the attorney general.]~~

513           ~~[(b) The bond premium for the bond required by Subsection (2)(a) shall be paid by the~~  
514 ~~state:]~~

515           ~~[(3)]~~ (2) The director's compensation shall be established by the governor within the  
516 salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

517           ~~[(4)]~~ (3) The director shall:

518           (a) carry out the policies of the commission and those of the department;

519           (b) keep the commission fully informed of all operations and administrative activities of  
520 the department; and

521           (c) assist the commission in the proper discharge of its duties and responsibilities.

522           ~~[(5) (a) The director may be removed from office for cause by a majority vote of the~~  
523 ~~commission after a public hearing before the full commission:]~~

524           ~~[(b) The director shall receive written notice of:]~~

525           ~~[(i) the date, time, and place of the hearing; and]~~

526           ~~[(ii) the alleged grounds for removal at least ten days before the hearing:]~~

527           ~~[(c) The director shall be afforded the opportunity to:]~~

528           ~~[(i) attend the hearing;]~~

529           ~~[(ii) present witnesses and other evidence; and]~~

530           ~~[(iii) confront and cross examine witnesses:]~~

531           ~~[(d) Following the hearing, written findings of fact, conclusions of law, and the final~~  
532 ~~order of the commission shall be issued and served upon the director:]~~

533           Section 5. Section **32A-1-116** is amended to read:

**32A-1-116. Purchase of liquor.**

(1) The department may not purchase or stock ~~[alcoholic beverages]~~ spirituous liquor in containers smaller than 200 ~~[ml.]~~ milliliters except as otherwise allowed by the commission.

(2) (a) Each order by the department for the purchase of spirituous liquor, wine, or heavy beer, or any cancellation by the department of an order for spirituous liquor, wine, or heavy beer:

(i) shall be executed in writing by the department; and

(ii) is not valid or binding unless executed in writing.

(b) A copy of each order or cancellation shall be kept on file by the department for at least three years.

(c) An electronic record satisfies Subsections (2)(a) and (b) pursuant to Title 46, Chapter 4, Uniform Electronic Transactions Act.

Section 6. Section **32A-1-119** is amended to read:

**32A-1-119. Disciplinary proceedings -- Procedure.**

(1) (a) As used in this section and Section 32A-1-120, "disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(i) against:

(A) a permittee;

(B) a licensee;

(C) a manufacturer;

(D) a supplier;

(E) an importer;

(F) an out-of-state brewer holding a certificate of approval under Section 32A-8-101;

or

(G) an officer, employee, or agent of:

(I) a person listed in Subsections (1)(a)(i)(A) through (F); ~~and~~ or

(II) a package agent; and

(ii) that is brought on the basis of a violation of this title.

(b) As used in Subsection (4), "final adjudication" means an adjudication for which a final unappealable judgment or order has been issued.

(2) (a) The following may conduct adjudicative proceedings to inquire into any matter necessary and proper for the administration of this title and rules adopted under this title:

(i) the commission;

(ii) a hearing examiner appointed by the commission for the purposes provided in Subsection 32A-1-107(3);

(iii) the director; and

(iv) the department.

(b) Except as provided in this section or Section 32A-3-106, the following shall comply with the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, in adjudicative proceedings:

(i) the commission;

(ii) a hearing examiner appointed by the commission;

(iii) the director; and

(iv) the department.

(c) Except where otherwise provided by law, all adjudicative proceedings before the commission or its appointed hearing examiner shall be:

(i) video or audio recorded; and

(ii) subject to Subsection (5)(e), conducted in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(d) All adjudicative proceedings concerning departmental personnel shall be conducted in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

(e) All hearings that are informational, fact gathering, and nonadversarial in nature shall be conducted in accordance with rules, policies, and procedures promulgated by the commission, director, or department.

(3) (a) A disciplinary proceeding shall be conducted under the authority of the commission, which is responsible for rendering a final decision and order on any disciplinary

590 matter.

591 (b) (i) Nothing in this section precludes the commission from appointing necessary  
592 officers, including hearing examiners, from within or without the department, to administer the  
593 disciplinary proceeding process.

594 (ii) A hearing examiner appointed by the commission:

595 (A) may conduct a disciplinary proceeding hearing on behalf of the commission; and

596 (B) shall submit to the commission a report including:

597 (I) findings of fact determined on the basis of a preponderance of the evidence  
598 presented at the hearing;

599 (II) conclusions of law; and

600 (III) recommendations.

601 (c) Nothing in this section precludes the commission, after [it] the commission has  
602 rendered its final decision and order, from having the director prepare, issue, and cause to be  
603 served on the parties the final written order on behalf of the commission.

604 (4) (a) The department may initiate a disciplinary proceeding described in Subsection  
605 (4)(b) when the department receives:

606 (i) a report from any government agency, peace officer, examiner, or investigator  
607 alleging that any person listed in Subsections (1)(a)(i)(A) through (G) has violated this title or  
608 the rules of the commission;

609 (ii) a final adjudication of criminal liability against any person listed in Subsections  
610 (1)(a)(i)(A) through (G) based on an alleged violation of this title; or

611 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage  
612 Liability, against any person listed in Subsections (1)(a)(i)(A) through (G) based on an alleged  
613 violation of this title.

614 (b) The department may initiate a disciplinary proceeding if the department receives an  
615 item listed in Subsection (4)(a) to determine:

616 (i) whether any person listed in Subsections (1)(a)(i)(A) through (G) violated this title  
617 or rules of the commission; and

- 618 (ii) if a violation is found, the appropriate sanction to be imposed.
- 619 (5) (a) Unless waived by the respondent, a disciplinary proceeding shall be held:
- 620 (i) if required by law;
- 621 (ii) before revoking or suspending any permit, license, or certificate of approval issued
- 622 under this title; or
- 623 (iii) before imposing a fine against any person listed in Subsections (1)(a)(i)(A) through
- 624 (G).
- 625 (b) Inexcusable failure of a respondent to appear at a scheduled disciplinary proceeding
- 626 hearing after receiving proper notice is an admission of the charged violation.
- 627 (c) The validity of a disciplinary proceeding is not affected by the failure of any person
- 628 to attend or remain in attendance.
- 629 (d) All disciplinary proceeding hearings shall be presided over by the commission or an
- 630 appointed hearing examiner.
- 631 (e) A disciplinary proceeding hearing may be closed only after the commission or
- 632 hearing examiner makes a written finding that the public interest in an open hearing is clearly
- 633 outweighed by factors enumerated in the closure order.
- 634 (f) (i) The commission or its hearing examiner as part of a disciplinary proceeding
- 635 hearing may:
- 636 (A) administer oaths or affirmations;
- 637 (B) take evidence;
- 638 (C) take depositions within or without this state; and
- 639 (D) require by subpoena from any place within this state:
- 640 (I) the testimony of any person at a hearing; and
- 641 (II) the production of any books, records, papers, contracts, agreements, documents, or
- 642 other evidence considered relevant to the inquiry.
- 643 (ii) A person subpoenaed in accordance with this Subsection (5)(f) shall testify and
- 644 produce any books, papers, documents, or tangible things as required in the subpoena.
- 645 (iii) Any witness subpoenaed or called to testify or produce evidence who claims a

privilege against self-incrimination may not be compelled to testify, but the commission or the hearing examiner shall file a written report with the county attorney or district attorney in the jurisdiction where the privilege was claimed or where the witness resides setting forth the circumstance of the claimed privilege.

(iv) (A) A person is not excused from obeying a subpoena without just cause.

(B) Any district court within the judicial district in which a person alleged to be guilty of willful contempt of court or refusal to obey a subpoena is found or resides, upon application by the party issuing the subpoena, may issue an order requiring the person to:

(I) appear before the issuing party; and

(II) (Aa) produce documentary evidence if so ordered; or

(Bb) give evidence regarding the matter in question.

(C) Failure to obey an order of the court may be punished by the court as contempt.

(g) (i) In all disciplinary proceeding hearings heard by a hearing examiner, the hearing examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.

(ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not recommend a penalty more severe than that initially sought by the department in the notice of agency action.

(iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g) shall be served upon the respective parties.

(iv) The respondent and the department shall be given reasonable opportunity to file any written objections to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g) before final commission action.

(h) In all cases heard by the commission, it shall issue its final decision and order in accordance with Subsection (3).

(6) (a) The commission shall:

(i) render a final decision and order on any disciplinary action; and

(ii) cause its final order to be prepared in writing, issued, and served on all parties.

(b) Any order of the commission is considered final on the date the order becomes



effective.

(c) If the commission is satisfied that a person listed in Subsections (1)(a)(i)(A) through (G) has committed a violation of this title or the commission's rules, in accordance with Title 63, Chapter 46b, Administrative Procedures Act, the commission may:

- (i) suspend or revoke the permit, license, or certificate of approval;
- (ii) impose a fine against a person listed in Subsections (1)(a)(i)(A) through (G);
- (iii) assess the administrative costs of any ~~hearing~~ disciplinary proceeding to the permittee, the licensee, or certificate holder; or
- (iv) any combination of Subsections (6)(c)(i) through (iii).

(d) A fine imposed in accordance with this Subsection (6) is subject to Subsections 32A-1-107(1)(p) and (4).

(e) (i) If a permit or license is suspended under this Subsection (6), a sign provided by the department shall be prominently posted:

- (A) during the suspension;
- (B) by the permittee or licensee; and
- (C) at the entrance of the premises of the permittee or licensee.

(ii) The sign required by this Subsection (6)(e) shall:

(A) read "The Utah Alcoholic Beverage Control Commission has suspended the alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be sold, served, furnished, or consumed on these premises during the period of suspension."; and

(B) include the dates of the suspension period.

(iii) A permittee or licensee may not remove, alter, obscure, or destroy a sign required to be posted under this Subsection (6)(e) during the suspension period.

(f) If a permit or license is revoked, the commission may order the revocation of any compliance bond posted by the permittee or licensee.

(g) Any permittee or licensee whose permit or license is revoked may not reapply for a permit or license under this title for three years from the date on which the permit or license is revoked.

(h) All costs assessed by the commission shall be transferred into the General Fund in accordance with Section 32A-1-113.

(7) (a) In addition to any action taken against a permittee, licensee, or certificate holder under this section, the department may initiate disciplinary action against an officer, employee, or agent of a permittee, licensee, or certificate holder.

(b) If any officer, employee, or agent is found to have violated this title, the commission may prohibit the officer, employee, or agent from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any permittee, licensee, or certificate holder under this title for a period determined by the commission.

(8) (a) The department may initiate a disciplinary proceeding for an alleged violation of this title or the rules of the commission against:

(i) a manufacturer, supplier, or importer of alcoholic beverages; or

(ii) an officer, employee, agent, or representative of a person listed in Subsection (8)(a)(i).

(b) (i) If the commission makes the finding described in Subsection (8)(b)(ii), the commission may, in addition to other penalties prescribed by this title, order:

(A) the removal of the manufacturer's, supplier's, or importer's products from the department's sales list; and

(B) a suspension of the department's purchase of the products described in Subsection (8)(b)(i)(A) for a period determined by the commission.

(ii) The commission may take the action described in Subsection (8)(b)(i) if:

(A) any manufacturer, supplier, or importer of liquor, wine, or heavy beer or its officer, employee, agent, or representative violates any provision of this title; and

(B) the manufacturer, supplier, or importer:

(I) directly committed the violation; or

(II) solicited, requested, commanded, encouraged, or intentionally aided another to engage in the violation.

(9) (a) The department may initiate a disciplinary proceeding against a brewer holding a certificate of approval under Section 32A-8-101 for an alleged violation of this title or the rules of the commission.

(b) If the commission makes a finding that the brewer holding a certificate of approval violates this title or rules of the commission, the commission may take any action against the brewer holding a certificate of approval that the commission could take against a licensee including:

(i) suspension or revocation of the certificate of approval; and

(ii) imposition of a fine.

(10) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by the commission or a hearing examiner appointed by the commission shall proceed formally in accordance with Sections 63-46b-6 through 63-46b-11 in any case where:

(i) the alleged violation poses, or potentially poses, a grave risk to public safety, health, and welfare;

(ii) the alleged violation involves:

(A) selling, serving, or otherwise furnishing alcoholic products to a minor;

(B) attire, conduct, or entertainment prohibited by Part 6, Attire, Conduct, and Entertainment Act;

(C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf of the respondent;

(D) interfering or refusing to cooperate with:

(I) an authorized official of the department or the state in the discharge of the official's duties in relation to the enforcement of this title; or

(II) a peace officer in the discharge of the peace officer's duties in relation to the enforcement of this title;

(E) an unlawful trade practice under Sections 32A-12-601 through 32A-12-606;

(F) unlawful importation of alcoholic products; or

(G) unlawful supply of liquor by a liquor industry member, as defined in Subsection

32A-12-601(2), to any person other than the department or a military installation, except to the extent permitted by this title; or

(iii) the department determines to seek in a disciplinary proceeding hearing:

(A) an administrative fine exceeding \$3,000;

(B) a suspension of a license, permit, or certificate of approval of more than ten days;

or

(C) a revocation of a license, permit, or certificate of approval.

(b) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to provide a procedure to implement this Subsection (10).

Section 7. Section **32A-1-120** is amended to read:

**32A-1-120. Judicial review -- Enforcement.**

(1) In a disciplinary proceeding, ~~[any party named]~~ as defined in Section 32A-1-119, a respondent found in a final order of the commission to have violated this title or rules of the commission made under this title may seek judicial review in a court of competent jurisdiction pursuant to the judicial review provisions of Sections 63-46b-14 through 63-46b-18.

~~[(2)(a) The findings of the commission on questions of fact are final and are not subject to review.]~~

~~[(b) "Questions of fact" include ultimate facts and findings and conclusions of the commission on reasonableness and discretion.]~~

~~[(3) After the hearing, the reviewing court shall enter judgment affirming or setting aside the order of the commission.]~~

~~[(4)(a) The fact that a petition is pending in a reviewing court does not stay or suspend the operation of any order of the commission.]~~

~~[(b) The reviewing court may order that the commission's order be stayed or suspended during the appeal.]~~

~~[(c) Before issuing an order staying or suspending the commission's order, the reviewing court shall:]~~

~~[(i) give three days' notice to the parties; and]~~

~~[(ii) hold a hearing to receive argument and evidence on whether or not the commission's order should be stayed or suspended.]~~

~~[(d) If the reviewing court decides to stay or suspend the commission's order, it shall make a written finding that:]~~

~~[(i) great or irreparable damage would result to the petitioner absent the stay or suspension;]~~

~~[(ii) specifies the nature of the damage; and]~~

~~[(iii) is based upon evidence submitted to the court and identified by reference.]~~

(2) Notwithstanding Subsection 63-46b-16(4)(g), an appellate court may not grant relief on the basis that a finding of fact by the commission in a formal disciplinary proceeding is not supported, if the commission's finding of fact is supported by any evidence of substance in the record of the formal disciplinary proceeding when viewed in light of the whole record before the court.

(3) In addition to any other remedy provided by law, the commission may seek enforcement of a commission order in a disciplinary proceeding by seeking civil enforcement in a state district court in accordance with Section 63-46b-19.

Section 8. Section **32A-1-122** is amended to read:

**32A-1-122. Liquor prices -- School lunch program.**

(1) For purposes of this section:

(a) "Landed case cost" means:

(i) the cost of the product; and

(ii) inbound shipping costs incurred by the department.

(b) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

~~[(1)]~~ (2) (a) Except as provided in Subsections (2)(b) and [(3)] (c), all spirituous liquor and wine sold by the department within the state shall be marked up in an amount not less than [64.5%] 86% above the landed case cost to the department.

~~[(2)]~~ (b) All spirituous liquor and wine sold by the department to military installations in

814 Utah shall be marked up in an amount not less than 15% above the landed case cost to the  
815 department.

816 ~~[(3)]~~ (c) If a wine manufacturer producing less than 20,000 gallons of wine in any  
817 calendar year, as verified by the department pursuant to federal or other verifiable production  
818 reports, first applies to the department for a reduced markup, all wine ~~[sold in Utah by the wine~~  
819 ~~manufacturer]~~ produced by the wine manufacturer and sold to the department shall be marked  
820 up by the department in an amount not less than ~~[30%]~~ 47% above the landed case cost to the  
821 department.

822 (3) (a) Except as provided in Subsection (3)(b), all heavy beer sold by the department  
823 within the state shall be marked up in an amount not less than 64.5% above the landed case cost  
824 to the department.

825 (b) All heavy beer sold by the department to military installations in Utah shall be  
826 marked up in an amount not less than 15% above the landed case cost to the department.

827 (4) Ten percent of the total gross revenue from sales of spiritous liquor, wine, and  
828 heavy beer shall be deposited by the department with the state treasurer and credited to the  
829 Uniform School Fund to be used to support the school lunch program administered by the State  
830 Board of Education under Section 53A-19-201.

831 ~~[(4)]~~ (5) Nothing in this section prohibits the department from selling discontinued  
832 ~~[lines]~~ items at a discount.

833 Section 9. Section **32A-1-401** is amended to read:

834 **32A-1-401. Alcohol training and education -- Revocation, suspension, or**  
835 **nonrenewal of licenses.**

836 (1) The commission may suspend, revoke, or not renew the license of any licensee  
837 licensed by the commission if any of the following individuals, as defined in Section  
838 62A-15-401, fail to complete an alcohol training and education seminar required in Section  
839 62A-15-401:

840 (a) an individual who manages operations at the premises of the licensee engaged in the  
841 retail sale of alcoholic beverages for consumption on the premises of the licensee;

(b) an individual who supervises the serving of alcoholic beverages to a customer for consumption on the premises of the licensee; or

(c) an individual who serves alcoholic beverages to a customer for consumption on the premises of the licensee.

(2) A city, town, or county in which an establishment conducts its business may suspend, revoke, or not renew the business license of the establishment if any individual described in Subsection (1) fails to complete an alcohol training and education seminar required in Section 62A-15-401.

(3) A local authority that issues an off-premise beer retailer license to a [~~general food store or similar~~] business that is engaged in the retail sale of beer for consumption off the beer retailer's premises may immediately suspend the license if any of the following individuals fail to complete an alcohol training and education seminar required in Sections 32A-10-103 and 62A-15-401, an individual who:

(a) directly supervises the sale of beer to a customer for consumption off the premises of the off-premise beer retailer licensee; or

(b) sells beer to a customer for consumption off the premises of the off-premise beer retailer licensee.

Section 10. Section **32A-1-601** is enacted to read:

#### **Part 6. Attire, Conduct, and Entertainment Act**

##### **32A-1-601. Title -- Purpose -- Application to other laws.**

(1) This part is known as the "Attire, Conduct, and Entertainment Act."

(2) This part establishes reasonable and uniform time, place, and manner of operation restrictions relating to attire, conduct, and sexually oriented entertainers on a premises or at an event at which alcoholic beverages are sold, served, or allowed to be consumed under a retail license or permit issued by the commission so as to:

(a) reduce the adverse secondary effects that the attire, conduct, and sexually oriented entertainers may have upon communities of this state; and

(b) protect the health, peace, safety, welfare, and morals of the residents of

870 communities of this state.

871 (3) Nothing in this part permits or allows the showing or display of any matter that is  
872 contrary to:

873 (a) applicable federal or state statutes prohibiting obscenity; or

874 (b) state statutes relating to lewdness or indecent public displays.

875 (4) A local authority may be more restrictive of attire, conduct, or sexually oriented  
876 entertainers of the type prohibited in this part.

877 Section 11. Section **32A-1-602** is enacted to read:

878 **32A-1-602. General restrictions on attire and conduct.**

879 The following attire and conduct on a premises or at an event regulated by the  
880 commission under this title are considered contrary to the public health, peace, safety, welfare,  
881 and morals, and are prohibited:

882 (1) employing or using a person in the sale or service of alcoholic beverages while the  
883 person is in:

884 (a) a state of nudity;

885 (b) a state of seminudity; or

886 (c) attire, costume, or clothing that exposes to view any portion of:

887 (i) the female breast below the top of the areola; or

888 (ii) the cleft of the buttocks;

889 (2) employing or using the services of a person to mingle with patrons while the person  
890 is in:

891 (a) a state of nudity;

892 (b) a state of seminudity; or

893 (c) attire, costume, or clothing that exposes to view any portion of:

894 (i) the female breast below the top of the areola; or

895 (ii) the cleft of the buttocks;

896 (3) encouraging or permitting a person to:

897 (a) engage in or simulate an act of:



898           (i) sexual intercourse;  
899           (ii) masturbation;  
900           (iii) sodomy;  
901           (iv) bestiality;  
902           (v) oral copulation;  
903           (vi) flagellation; or  
904           (vii) a sexual act that is prohibited by Utah law; or  
905           (b) touch, caress, or fondle the breast, buttocks, anus, or genitals of any other person;  
906           (4) permitting a person to wear or use a device or covering that:  
907           (a) is exposed to view; and  
908           (b) simulates all or any portion of the human genitals, anus, pubic area, or female  
909 breast;  
910           (5) permitting a person to use an artificial device or inanimate object to depict an act  
911 prohibited by this section;  
912           (6) permitting a person to remain on a premises or at an event who exposes to public  
913 view any portion of that person's:  
914           (a) genitals, pubic area, or anus; or  
915           (b) in the case of a female, the areola and nipple of the breast; or  
916           (7) showing a film, still picture, electronic reproduction, or other visual reproduction  
917 depicting:  
918           (a) an act or simulated act of:  
919           (i) sexual intercourse;  
920           (ii) masturbation;  
921           (iii) sodomy;  
922           (iv) bestiality;  
923           (v) oral copulation;  
924           (vi) flagellation; or  
925           (vii) a sexual act that is prohibited by Utah law;

- 926           (b) a person being touched, caressed, or fondled on the breast, buttocks, anus, or  
927 genitals;
- 928           (c) a scene wherein an artificial device or inanimate object is employed to depict, or a  
929 drawing is employed to portray, an act prohibited by this section; or
- 930           (d) a scene wherein a person displays the genitals or anus.
- 931           Section 12. Section **32A-1-603** is enacted to read:
- 932           **32A-1-603. Sexually oriented entertainer.**
- 933           (1) Subject to the restrictions of this section, live entertainment is permitted on a  
934 premises or at an event regulated by the commission.
- 935           (2) Notwithstanding Subsection (1), a licensee or permittee may not permit a person to:
- 936           (a) appear or perform in a state of nudity;
- 937           (b) perform or simulate an act of:
- 938           (i) sexual intercourse;
- 939           (ii) masturbation;
- 940           (iii) sodomy;
- 941           (iv) bestiality;
- 942           (v) oral copulation;
- 943           (vi) flagellation; or
- 944           (v) a sexual act that is prohibited by Utah law; or
- 945           (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.
- 946           (3) A sexually oriented entertainer may perform in a state of seminudity:
- 947           (a) only in a tavern or class D private club; and
- 948           (b) only if:
- 949           (i) all windows, doors, and other apertures to the premises are darkened or otherwise  
950 constructed to prevent anyone outside the premises from seeing the performance; and
- 951           (ii) the outside entrance doors of the premises remain unlocked.
- 952           (4) A sexually oriented entertainer may perform only upon a stage or in a designated  
953 performance area that is:

954 (a) approved by the commission in accordance with rules made by the commission in  
955 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

956 (b) configured so as to preclude a patron from:

957 (i) touching the sexually oriented entertainer; or

958 (ii) placing any money or object on or within the costume or the person of the sexually  
959 oriented entertainer; and

960 (c) configured so as to preclude the sexually oriented entertainer from touching a  
961 patron.

962 (5) A sexually oriented entertainer may not touch a patron:

963 (a) during the sexually oriented entertainer's performance; or

964 (b) while the sexually oriented entertainer is dressed in performance attire or costume.

965 (6) A sexually oriented entertainer, while in the portion of the premises used by patrons,  
966 must be dressed in opaque clothing which covers and conceals the sexually oriented entertainer's  
967 performance attire or costume from the top of the breast to the knee.

968 (7) A patron may not be on the stage or in the performance area while a sexually  
969 oriented entertainer is appearing or performing on the stage or in the performance area.

970 (8) A patron may not:

971 (a) touch a sexually oriented entertainer:

972 (i) during the sexually oriented entertainer's performance; or

973 (ii) while the sexually oriented entertainer is dressed in performance attire or costume;

974 or

975 (b) place money or any other object on or within the costume or the person of the  
976 sexually oriented entertainer.

977 (9) A minor may not be on a premises described in Subsection (3) when a sexually  
978 oriented entertainer is performing on the premises.

979 (10) A person who appears or performs for the entertainment of patrons on a premises  
980 or at an event regulated by the commission that is not a tavern or class D private club:

981 (a) may not appear or perform in a state of nudity or a state of seminudity; and

(b) may appear or perform in opaque clothing that completely covers the person's  
genitals, pubic area, and anus if the covering:

(i) is not less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body;

(ii) does not taper to less than one inch wide at the narrowest point; and

(iii) if covering a female, completely covers the breast below the top of the areola.

Section 13. Section **32A-1-604** is enacted to read:

**32A-1-604. Compliance -- Disciplinary proceeding.**

(1) Each person granted a license or permit by the commission to sell, serve, or allow  
consumption of alcoholic beverages on a premises or at an event and each officer, employee, or  
agent of the licensee or permittee shall comply with the conditions and requirements of this part.

(2) Failure to comply with this part may result in a disciplinary proceeding pursuant to  
Section 32A-1-119 against:

(a) a licensee or permittee; and

(b) an officer, employee, or agent of the licensee or permittee.

Section 14. Section **32A-4-102** is amended to read:

**32A-4-102. Application and renewal requirements.**

(1) A person seeking a restaurant liquor license under this part shall file a written  
application with the department, in a form prescribed by the department. It shall be  
accompanied by:

(a) a nonrefundable \$250 application fee;

(b) an initial license fee of \$1,750, which is refundable if a license is not granted;

(c) written consent of the local authority;

(d) a copy of the applicant's current business license;

(e) evidence of proximity to any public or private school, church, public library, public  
playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of  
Subsections 32A-4-101(4) and (5), the application shall be processed in accordance with those

- 1010 subsections;
- 1011 (f) a bond as specified by Section 32A-4-105;
- 1012 (g) a floor plan of the restaurant, including consumption areas and the area where the
- 1013 applicant proposes to keep, store, and sell liquor;
- 1014 (h) evidence that the restaurant is carrying public liability insurance in an amount and
- 1015 form satisfactory to the department;
- 1016 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
- 1017 \$500,000 per occurrence and \$1,000,000 in the aggregate;
- 1018 (j) a signed consent form stating that the restaurant will permit any authorized
- 1019 representative of the commission, department, or any law enforcement officer unrestricted right
- 1020 to enter the restaurant;
- 1021 (k) in the case of an applicant that is a partnership, corporation, or limited liability
- 1022 company, proper verification evidencing that the person or persons signing the restaurant
- 1023 application are authorized to so act on behalf of the partnership, corporation, or limited liability
- 1024 company; and
- 1025 (l) any other information the commission or department may require.
- 1026 (2) (a) All restaurant liquor licenses expire on October 31 of each year.
- 1027 (b) Persons desiring to renew their restaurant liquor license shall by no later than
- 1028 September 30 submit:
- 1029 (i) a completed renewal application to the department; and
- 1030 (ii) a renewal fee in the following amount:
- |      |  |             |
|------|--|-------------|
| 1031 | Gross Cost of Liquor in Previous License Year for the Licensee | Renewal Fee |
| 1032 | under \$5,000  | \$750       |
| 1033 | equals or exceeds \$5,000 but less than \$10,000               | \$900       |
| 1034 | equals or exceeds \$10,000 but less than \$25,000              | \$1,250     |
| 1035 | equals or exceeds \$25,000                                     | \$1,500[-]  |
- 1036 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
- 1037 the license effective on the date the existing license expires.

- 1038 (d) Renewal applications shall be in a form as prescribed by the department.
- 1039 (3) To ensure compliance with Subsection 32A-4-106[~~(28)~~] (25), the commission may
- 1040 suspend or revoke any restaurant liquor license if the restaurant liquor licensee does not
- 1041 immediately notify the department of any change in:
- 1042 (a) ownership of the restaurant;
- 1043 (b) for a corporate owner, the:
- 1044 (i) corporate officers or directors; or
- 1045 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
- 1046 corporation; or
- 1047 (c) for a limited liability company:
- 1048 (i) managers; or
- 1049 (ii) members owning at least 20% of the limited liability company.
- 1050 Section 15. Section **32A-4-106** is amended to read:
- 1051 **32A-4-106. Operational restrictions.**
- 1052 Each person granted a restaurant liquor license and the employees and management
- 1053 personnel of the restaurant shall comply with the following conditions and requirements.
- 1054 Failure to comply may result in a suspension or revocation of the license or other disciplinary
- 1055 action taken against individual employees or management personnel.
- 1056 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from state
- 1057 stores or package agencies.
- 1058 (b) Liquor purchased may be transported by the restaurant liquor licensee from the
- 1059 place of purchase to the licensed premises.
- 1060 (c) Payment for liquor shall be made in accordance with rules established by the
- 1061 commission.
- 1062 (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in a
- 1063 quantity not to exceed one ounce per beverage dispensed through a calibrated metered
- 1064 dispensing system approved by the department in accordance with commission rules adopted
- 1065 under this title, except that:

1066 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1067 system if used as a secondary flavoring ingredient in a beverage subject to the following  
1068 restrictions:

1069 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of a  
1070 primary spirituous liquor;

1071 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

1072 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored  
1073 on the floor plan provided to the department; and

1074 (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

1075 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1076 system if used:

1077 (i) as a flavoring on desserts; and

1078 (ii) in the preparation of flaming food dishes, drinks, and desserts;

1079 (c) each restaurant patron may have no more than 2.75 ounces of spirituous liquor at a  
1080 time; and

1081 (d) each restaurant patron may have no more than one spirituous liquor drink at a time  
1082 before the patron.

1083 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to  
1084 exceed five ounces per glass or individual portion.

1085 (ii) An individual portion of wine may be served to a patron in more than one glass as  
1086 long as the total amount of wine does not exceed five ounces.

1087 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
1088 Subsection (7)(e).

1089 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed  
1090 by the commission to tables of four or more persons.

1091 (ii) Wine may be sold and served in containers not exceeding 750 ~~[ml]~~ milliliters at  
1092 prices fixed by the commission to tables of less than four persons.

1093 (c) A wine service may be performed and a service charge assessed by the restaurant as

1094 authorized by commission rule for wine purchased at the restaurant.

1095 (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices  
1096 fixed by the commission.

1097 (b) A service charge may be assessed by the restaurant as authorized by commission  
1098 rule for heavy beer purchased at the restaurant.

1099 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant licensed to sell liquor may sell  
1100 beer for on-premise consumption:

1101 (A) in an open container; and

1102 (B) on draft.

1103 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
1104 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
1105 container that exceeds one liter.

1106 (b) A restaurant licensed under this chapter that sells beer pursuant to Subsection  
1107 (5)(a):

1108 (i) may do so without obtaining a separate on-premise beer retailer license from the  
1109 commission; and

1110 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
1111 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are  
1112 inconsistent with or less restrictive than the operational restrictions under this part.

1113 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
1114 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the  
1115 restaurant's:

1116 (i) state liquor license; and

1117 (ii) alcoholic beverage license issued by the local authority.

1118 (6) Alcoholic beverages may not be stored, served, or sold in any place other than as  
1119 designated in the licensee's application, unless the licensee first applies for and receives approval  
1120 from the department for a change of location within the restaurant.

1121 (7) (a) (i) A patron may only make alcoholic beverage purchases in the restaurant from



1122 and be served by a person employed, designated, and trained by the licensee to sell and serve  
1123 alcoholic beverages.

1124 (ii) Notwithstanding Subsection (7)(a)(i), a patron who has purchased bottled wine  
1125 from an employee of the restaurant or has carried bottled wine onto the premises of the  
1126 restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the patron  
1127 or others at the patron's table.

1128 (b) Alcoholic beverages shall be delivered by a server to the patron.

1129 (c) Any alcoholic beverage may only be consumed at the patron's table or counter.

1130 (d) Alcoholic beverages may not be served to or consumed by a patron at a bar.

1131 (e) Each restaurant patron may have no more than two alcoholic beverages of any kind  
1132 at a time before the patron, subject to the limitation in Subsection (2)(d).

1133 (8) The liquor storage area shall remain locked at all times other than those hours and  
1134 days when liquor sales are authorized by law.

1135 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a  
1136 restaurant during the following days or hours:

1137 (i) until after the polls are closed on the day of any:

1138 (A) regular general election;

1139 (B) regular primary election; or

1140 (C) statewide special election;

1141 (ii) until after the polls are closed on the day of any municipal, special district, or school  
1142 election, but only:

1143 (A) within the boundaries of the municipality, special district, or school district; and

1144 (B) if required by local ordinance; and

1145 (iii) on any other day after 12 midnight and before 12 noon.

1146 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
1147 Licenses, for on-premise beer licensees.

1148 (10) Alcoholic beverages may not be sold except in connection with an order for food  
1149 prepared, sold, and served at the restaurant.

- 1150 (11) Alcoholic beverages may not be sold, served, or otherwise furnished to any:
- 1151 (a) minor;
- 1152 (b) person actually, apparently, or obviously intoxicated;
- 1153 (c) known habitual drunkard; or
- 1154 (d) known interdicted person.
- 1155 (12) (a) (i) Liquor may be sold only at prices fixed by the commission.
- 1156 (ii) Liquor may not be sold at discount prices on any date or at any time.
- 1157 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
- 1158 beverage to the licensee.
- 1159 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 1160 over consumption or intoxication.
- 1161 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 1162 hours of the restaurant's business day such as a "happy hour."
- 1163 (e) The sale or service of more than one alcoholic beverage for the price of a single
- 1164 alcoholic beverage is prohibited.
- 1165 (f) The sale or service of an indefinite or unlimited number of alcoholic beverages
- 1166 during any set period for a fixed price is prohibited.
- 1167 (g) A restaurant licensee may not engage in a public promotion involving or offering
- 1168 free alcoholic beverages to the general public.
- 1169 (13) Alcoholic beverages may not be purchased for a patron of a restaurant by:
- 1170 (a) the licensee; or
- 1171 (b) any employee or agent of the licensee.
- 1172 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee any
- 1173 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
- 1174 discretion of the licensee, bottled wine onto the premises of any restaurant liquor licensee for
- 1175 on-premise consumption.
- 1176 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or its
- 1177 officers, managers, employees, or agents may not allow:

1178 (i) a person to bring onto the restaurant premises any alcoholic beverage for on-premise  
1179 consumption; or

1180 (ii) consumption of any such alcoholic beverage on its premises.

1181 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
1182 or other representative of the licensee upon entering the restaurant.

1183 (d) A wine service may be performed and a service charge assessed by the restaurant as  
1184 authorized by commission rule for wine carried in by a patron.

1185 (15) (a) Except as provided in Subsection (15)(b), a restaurant licensee and its  
1186 employees may not permit a restaurant patron to carry from the restaurant premises an open  
1187 container that:

1188 (i) is used primarily for drinking purposes; and

1189 (ii) contains any alcoholic beverage.

1190 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the  
1191 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought  
1192 onto the premises of the restaurant in accordance with Subsection (14), provided the bottle has  
1193 been recorked or recapped before removal.

1194 (16) (a) A minor may not be employed by a restaurant licensee to sell or dispense  
1195 alcoholic beverages.

1196 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be  
1197 employed to enter the sale at a cash register or other sales recording device.

1198 (17) An employee of a restaurant liquor licensee, while on duty, may not:

1199 (a) consume an alcoholic beverage; or

1200 (b) be intoxicated.

1201 (18) Any charge or fee made in connection with the sale, service, or consumption of  
1202 liquor may be stated in food or alcoholic beverage menus including:

1203 (a) a set-up charge;

1204 (b) a service charge; or

1205 (c) a chilling fee.

1206 (19) Each restaurant liquor licensee shall display in a prominent place in the restaurant:

1207 (a) the liquor license that is issued by the department;

1208 (b) a list of the types and brand names of liquor being served through its calibrated  
1209 metered dispensing system; and

1210 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
1211 drugs is a serious crime that is prosecuted aggressively in Utah."

1212 ~~[(20) The following acts or conduct in a restaurant licensed under this chapter are~~  
1213 ~~considered contrary to the public welfare and morals, and are prohibited upon the premises:]~~

1214 ~~[(a) employing or using any person in the sale or service of alcoholic beverages while~~  
1215 ~~the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the~~  
1216 ~~female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the~~  
1217 ~~buttocks, vulva, or genitals;]~~

1218 ~~[(b) employing or using the services of any person to mingle with the patrons while the~~  
1219 ~~person is unclothed or in attire, costume, or clothing described in Subsection (20)(a);]~~

1220 ~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts,~~  
1221 ~~buttocks, anus, or genitals of any other person;]~~

1222 ~~[(d) permitting any employee or person to wear or use any device or covering, exposed~~  
1223 ~~to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

1224 ~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of~~  
1225 ~~the prohibited activities described in this Subsection (20);]~~

1226 ~~[(f) permitting any person to remain in or upon the premises who exposes to public~~  
1227 ~~view any portion of that person's genitals or anus; or]~~

1228 ~~[(g) showing films, still pictures, electronic reproductions, or other visual reproductions~~  
1229 ~~depicting;]~~

1230 ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral~~  
1231 ~~copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

1232 ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or~~  
1233 ~~genitals;]~~

~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this Subsection (20); or]~~

~~[(iv) scenes wherein a person displays the vulva or the anus or the genitals.]~~

~~[(21) Nothing in Subsection (20) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (20).]~~

~~[(22)(a) Although live entertainment is permitted on the premises of a restaurant liquor licensee, a licensee may not allow any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.]~~

~~[(b) Nothing in Subsection (22)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (22)(a).]~~

~~[(23)]~~ (20) A restaurant liquor licensee may not engage in or permit any form of gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the premises of the restaurant liquor licensee.

~~[(24)]~~ (21) (a) Each restaurant liquor licensee shall maintain an expense ledger or record showing in detail:

(i) quarterly expenditures made separately for:

(A) malt or brewed beverages;

(B) set-ups;

(C) liquor;

(D) food; and

(E) all other items required by the department; and

(ii) sales made separately for:

(A) malt or brewed beverages;

(B) set-ups;

- 1262 (C) food; and
- 1263 (D) all other items required by the department.
- 1264 (b) The record required by Subsection [~~(24)~~] (21)(a) shall be kept:
- 1265 (i) in a form approved by the department; and
- 1266 (ii) current for each three-month period.
- 1267 (c) Each expenditure shall be supported by:
- 1268 (i) delivery tickets;
- 1269 (ii) invoices;
- 1270 (iii) receipted bills;
- 1271 (iv) canceled checks;
- 1272 (v) petty cash vouchers; or
- 1273 (vi) other sustaining data or memoranda.
- 1274 (d) In addition to a ledger or record required under Subsection [~~(24)~~] (21)(a), a
- 1275 restaurant liquor licensee shall maintain accounting and other records and documents as the
- 1276 department may require.
- 1277 (e) Any restaurant or person acting for the restaurant, who knowingly forges, falsifies,
- 1278 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or
- 1279 other documents of the restaurant required to be made, maintained, or preserved by this title or
- 1280 the rules of the commission for the purpose of deceiving the commission or the department, or
- 1281 any of their officials or employees, is subject to:
- 1282 (i) the suspension or revocation of the restaurant's liquor license; and
- 1283 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1284 [~~(25)~~] (22) (a) A restaurant liquor licensee may not close or cease operation for a
- 1285 period longer than 240 hours, unless:
- 1286 (i) the restaurant liquor licensee notifies the department in writing at least seven days
- 1287 before the closing; and
- 1288 (ii) the closure or cessation of operation is first approved by the department.
- 1289 (b) Notwithstanding Subsection [~~(25)~~] (22)(a), in the case of emergency closure,

1290 immediate notice of closure shall be made to the department by telephone.

1291 (c) The department may authorize a closure or cessation of operation for a period not  
1292 to exceed 60 days. The department may extend the initial period an additional 30 days upon  
1293 written request of the restaurant licensee and upon a showing of good cause. A closure or  
1294 cessation of operation may not exceed a total of 90 days without commission approval.

1295 (d) Any notice shall include:

1296 (i) the dates of closure or cessation of operation;

1297 (ii) the reason for the closure or cessation of operation; and

1298 (iii) the date on which the licensee will reopen or resume operation.

1299 (e) Failure of the licensee to provide notice and to obtain department authorization  
1300 prior to closure or cessation of operation shall result in an automatic forfeiture of:

1301 (i) the license; and

1302 (ii) the unused portion of the license fee for the remainder of the license year effective  
1303 immediately.

1304 (f) Failure of the licensee to reopen or resume operation by the approved date shall  
1305 result in an automatic forfeiture of:

1306 (i) the license; and

1307 (ii) the unused portion of the license fee for the remainder of the license year.

1308 ~~[(26)]~~ (23) Each restaurant liquor licensee shall maintain at least 70% of its total  
1309 restaurant business from the sale of food, which does not include mix for alcoholic beverages or  
1310 service charges.

1311 ~~[(27)]~~ (24) A restaurant liquor license may not be transferred from one location to  
1312 another, without prior written approval of the commission.

1313 ~~[(28)]~~ (25) (a) A person, having been granted a restaurant liquor license may not sell,  
1314 transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any  
1315 other person whether for monetary gain or not.

1316 (b) A restaurant liquor license has no monetary value for the purpose of any type of  
1317 disposition.

[~~(29)~~] (26) Each server of alcoholic beverages in a licensee's establishment shall keep a written beverage tab for each table or group that orders or consumes alcoholic beverages on the premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or consumed.

[~~(30)~~] (27) A person's willingness to serve alcoholic beverages may not be made a condition of employment as a server with a restaurant that has a restaurant liquor license.

Section 16. Section **32A-4-206** is amended to read:

**32A-4-206. Operational restrictions.**

Each person granted an airport lounge liquor license and the employees and management personnel of the airport lounge shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from state stores or package agencies.

(b) Liquor purchased may be transported by the licensee from the place of purchase to the licensed premises.

(c) Payment for liquor shall be made in accordance with the rules established by the commission.

(2) An airport lounge liquor licensee may sell or provide a primary spirituous liquor only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title, except that:

(a) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following restrictions:

(i) the secondary ingredient may be dispensed only in conjunction with the purchase of a spirituous primary liquor;

(ii) the secondary ingredient is not the only spirituous liquor in the beverage;



1346 (iii) the airport lounge liquor licensee shall designate a location where flavorings are  
1347 stored on the floor plan provided to the department; and

1348 (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

1349 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1350 system if used:

1351 (i) as a flavoring on desserts; and

1352 (ii) in the preparation of flaming food dishes, drinks, and desserts; and

1353 (c) each airport lounge patron may have no more than 2.75 ounces of spirituous liquor  
1354 at a time before the patron.

1355 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to  
1356 exceed five ounces per glass or individual portion.

1357 (ii) An individual portion may be served to a patron in more than one glass as long as  
1358 the total amount of wine does not exceed five ounces.

1359 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
1360 Subsection (7)(c).

1361 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed  
1362 by the commission to tables of four or more persons.

1363 (ii) Wine may be sold and served in containers not exceeding 750 ~~[ml]~~ milliliters at  
1364 prices fixed by the commission to tables of less than four persons.

1365 (c) A wine service may be performed and a service charge assessed by the airport  
1366 lounge as authorized by commission rule for wine purchased at the airport lounge.

1367 (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices  
1368 fixed by the commission.

1369 (b) A service charge may be assessed by the airport lounge as authorized by commission  
1370 rule for heavy beer purchased at the airport lounge.

1371 (5) (a) (i) Subject to Subsection (5)(a)(ii), an airport lounge licensed to sell liquor may  
1372 sell beer for on-premise consumption:

1373 (A) in an open container; and

1374 (B) on draft.

1375 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
1376 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
1377 container that exceeds one liter.

1378 (b) An airport lounge that sells beer pursuant to Subsection (5)(a):

1379 (i) may do so without obtaining a separate on-premise beer retailer license from the  
1380 commission; and

1381 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
1382 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are  
1383 inconsistent with or less restrictive than the operational restrictions under this part.

1384 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
1385 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the airport  
1386 lounge's:

1387 (i) state liquor license; and

1388 (ii) alcoholic beverage license issued by the local authority.

1389 (6) Alcoholic beverages may not be stored, served, or sold in any place other than as  
1390 designated in the licensee's application, unless the licensee first applies for and receives approval  
1391 from the department for a change of location within the airport lounge.

1392 (7) (a) A patron may only make purchases in the airport lounge from and be served by a  
1393 person employed, designated, and trained by the licensee to sell, dispense, and serve alcoholic  
1394 beverages.

1395 (b) Notwithstanding Subsection (7)(a), a patron who has purchased bottled wine from  
1396 an employee of the airport lounge may serve wine from the bottle to the patron or others at the  
1397 patron's table.

1398 (c) Each airport lounge patron may have no more than two alcoholic beverages of any  
1399 kind at a time before the patron.

1400 (8) The liquor storage area shall remain locked at all times other than those hours and  
1401 days when liquor sales and service are authorized by law.

- 1402           (9) Alcoholic beverages may not be sold, offered for sale, served, or otherwise  
1403 furnished at an airport lounge on any day after 12 midnight and before 8 a.m.
- 1404           (10) Alcoholic beverages may not be sold, served, or otherwise furnished to any:  
1405           (a) minor;  
1406           (b) person actually, apparently, or obviously intoxicated;  
1407           (c) known habitual drunkard; or  
1408           (d) known interdicted person.
- 1409           (11) (a) (i) Liquor may be sold only at prices fixed by the commission.  
1410               (ii) Liquor may not be sold at discount prices on any date or at any time.  
1411           (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage  
1412 to the licensee.
- 1413           (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
1414 over consumption or intoxication.
- 1415           (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
1416 hours of the airport lounge's business day such as a "happy hour."
- 1417           (e) The sale or service of more than one alcoholic beverage for the price of a single  
1418 alcoholic beverage is prohibited.
- 1419           (f) The sale or service of an indefinite or unlimited number of alcoholic beverages  
1420 during any set period for a fixed price is prohibited.
- 1421           (g) An airport lounge licensee may not engage in a public promotion involving or  
1422 offering free alcoholic beverages to the general public.
- 1423           (12) Alcoholic beverages may not be purchased for a patron of an airport lounge by:  
1424           (a) the licensee; or  
1425           (b) any employee or agent of the licensee.
- 1426           (13) (a) A person may not bring onto the premises of an airport lounge licensee any  
1427 alcoholic beverage for on-premise consumption.
- 1428           (b) An airport lounge or its officers, managers, employees, or agents may not allow a  
1429 person to bring onto the airport lounge premises any alcoholic beverage for on-premise

1430 consumption or allow consumption of any such alcoholic beverage on its premises.

1431 (14) An airport lounge licensee and its employees may not permit a patron to remove  
1432 any alcoholic beverages from the airport lounge premises.

1433 (15) (a) A minor may not be employed by an airport lounge licensee to sell or dispense  
1434 alcoholic beverages.

1435 (b) Notwithstanding Subsection (15)(a), a minor who is at least 16 years of age may be  
1436 employed to enter the sale at a cash register or other sales recording device.

1437 (16) An employee of an airport lounge licensee, while on duty, may not:

1438 (a) consume an alcoholic beverage; or

1439 (b) be intoxicated.

1440 (17) Any charge or fee made in connection with the sale, service, or consumption of  
1441 liquor may be stated in a food or alcoholic beverage menu including:

1442 (a) a set-up charge;

1443 (b) a service charge; or

1444 (c) a chilling fee.

1445 (18) Each airport lounge liquor licensee shall display in a prominent place in the airport  
1446 lounge:

1447 (a) the liquor license that is issued by the department;

1448 (b) a list of the types and brand names of liquor being served through its calibrated  
1449 metered dispensing system; and

1450 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
1451 drugs is a serious crime that is prosecuted aggressively in Utah."

1452 (19) (a) Each airport lounge liquor licensee shall maintain an expense ledger or record  
1453 showing in detail:

1454 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all  
1455 other items required by the department; and

1456 (ii) sales made separately for malt or brewed beverages, food, and all other items  
1457 required by the department.

- 1458 (b) This record shall be kept:
- 1459 (i) in a form approved by the department; and
- 1460 (ii) current for each three-month period.
- 1461 (c) Each expenditure shall be supported by:
- 1462 (i) delivery tickets;
- 1463 (ii) invoices;
- 1464 (iii) receipted bills;
- 1465 (iv) canceled checks;
- 1466 (v) petty cash vouchers; or
- 1467 (vi) other sustaining data or memoranda.
- 1468 (d) In addition to a ledger or record required by Subsection (19)(a), each airport lounge
- 1469 liquor licensee shall maintain accounting and other records and documents as the department
- 1470 may require.
- 1471 (e) Any airport lounge or person acting for the airport lounge, who knowingly forges,
- 1472 falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of
- 1473 account or other documents of the airport lounge required to be made, maintained, or preserved
- 1474 by this title or the rules of the commission for the purpose of deceiving the commission or the
- 1475 department, or any of their officials or employees, is subject to:
- 1476 (i) the immediate suspension or revocation of the airport lounge's liquor license; and
- 1477 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1478 (20) An airport lounge liquor license may not be transferred from one location to
- 1479 another, without prior written approval of the commission.
- 1480 (21) (a) An airport lounge liquor licensee may not sell, transfer, assign, exchange,
- 1481 barter, give, or attempt in any way to dispose of the license to any other person, whether for
- 1482 monetary gain or not.
- 1483 (b) An airport lounge liquor license has no monetary value for the purpose of any type
- 1484 of disposition.
- 1485 (22) Each server of alcoholic beverages in a licensee's establishment shall keep a written

beverage tab for each table or group that orders or consumes alcoholic beverages on the premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or consumed.

(23) An airport lounge liquor licensee's premises may not be leased for private functions.

(24) An airport lounge liquor licensee may not engage in or permit any form of gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the premises of the airport lounge liquor licensee.

Section 17. Section **32A-4-303** is amended to read:

**32A-4-303. Application and renewal requirements.**

(1) A person seeking a limited restaurant license under this part shall file a written application with the department, in a form prescribed by the department. The application shall be accompanied by:

- (a) a nonrefundable \$250 application fee;
- (b) an initial license fee of \$500, which is refundable if a license is not granted;
- (c) written consent of the local authority;
- (d) a copy of the applicant's current business license;
- (e) evidence of proximity to any public or private school, church, public library, public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of Subsections 32A-4-302(4) and (5), the application shall be processed in accordance with those subsections;
- (f) a bond as specified by Section 32A-4-306;
- (g) a floor plan of the restaurant, including:
  - (i) consumption areas; and
  - (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and beer;
- (h) evidence that the restaurant is carrying public liability insurance in an amount and form satisfactory to the department;

- 1514 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least  
1515 \$500,000 per occurrence and \$1,000,000 in the aggregate;
- 1516 (j) a signed consent form stating that the restaurant will permit any authorized  
1517 representative of the commission, department, or any law enforcement officer unrestricted right  
1518 to enter the restaurant;
- 1519 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
1520 company, proper verification evidencing that the person or persons signing the restaurant  
1521 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
1522 company; and
- 1523 (l) any other information the commission or department may require.
- 1524 ~~[(2) A holder of a restaurant liquor license or a private club license on May 5, 2003;~~  
1525 ~~may not be required to pay the application or initial license fees for a limited restaurant license~~  
1526 ~~under this chapter if the licensee:]~~
- 1527 ~~[(a) surrenders the restaurant liquor license or private club license before being granted~~  
1528 ~~a limited restaurant license; and]~~
- 1529 ~~[(b) applies for a limited restaurant license in calendar year 2003:]~~
- 1530 ~~[(i) for the same premises for which the restaurant liquor license or private club license~~  
1531 ~~was granted; and]~~
- 1532 ~~[(ii) before the expiration of the restaurant liquor license or private club license:]~~
- 1533 ~~[(3)]~~ (2) (a) All limited restaurant licenses expire on October 31 of each year.
- 1534 (b) A person desiring to renew that person's limited restaurant license shall submit:
- 1535 (i) a renewal fee of \$300; and
- 1536 (ii) a renewal application to the department no later than September 30.
- 1537 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
1538 the license effective on the date the existing license expires.
- 1539 (d) Renewal applications shall be in a form as prescribed by the department.
- 1540 ~~[(4)]~~ (3) To ensure compliance with Subsection 32A-4-307~~[(28)]~~ (25), the commission  
1541 may suspend or revoke a limited restaurant license if the limited restaurant licensee does not

1542 immediately notify the department of any change in:

1543 (a) ownership of the restaurant;

1544 (b) for a corporate owner, the:

1545 (i) corporate officer or directors; or

1546 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
1547 corporation; or

1548 (c) for a limited liability company:

1549 (i) managers; or

1550 (ii) members owning at least 20% of the limited liability company.

1551 Section 18. Section **32A-4-307** is amended to read:

1552 **32A-4-307. Operational restrictions.**

1553 Each person granted a limited restaurant license and the employees and management  
1554 personnel of the restaurant shall comply with the following conditions and requirements.

1555 Failure to comply may result in a suspension or revocation of the license or other disciplinary  
1556 action taken against individual employees or management personnel.

1557 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee  
1558 except from state stores or package agencies.

1559 (b) Wine and heavy beer purchased in accordance with Subsection (1)(a) may be  
1560 transported by the licensee from the place of purchase to the licensed premises.

1561 (c) Payment for wine and heavy beer shall be made in accordance with rules established  
1562 by the commission.

1563 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of  
1564 spirituous liquor on the premises of the restaurant.

1565 (b) Spirituous liquor may not be on the premises of the restaurant except for use:

1566 (i) as a flavoring on desserts; and

1567 (ii) in the preparation of flaming food dishes, drinks, and desserts.

1568 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to  
1569 exceed five ounces per glass or individual portion.



1570 (ii) An individual portion may be served to a patron in more than one glass as long as  
1571 the total amount of wine does not exceed five ounces.

1572 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
1573 Subsection (7)(e).

1574 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed  
1575 by the commission to tables of four or more persons.

1576 (ii) Wine may be sold and served in containers not exceeding 750 ~~[ml]~~ milliliters at  
1577 prices fixed by the commission to tables of less than four persons.

1578 (c) A wine service may be performed and a service charge assessed by the limited  
1579 restaurant as authorized by commission rule for wine purchased at the limited restaurant.

1580 (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices  
1581 fixed by the commission.

1582 (b) A service charge may be assessed by the limited restaurant as authorized by  
1583 commission rule for heavy beer purchased at the restaurant.

1584 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for  
1585 on-premise consumption:

1586 (A) in an open container; and

1587 (B) on draft.

1588 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
1589 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
1590 container that exceeds one liter.

1591 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

1592 (i) may do so without obtaining a separate on-premise beer retailer license from the  
1593 commission; and

1594 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
1595 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are  
1596 inconsistent with or less restrictive than the operational restrictions under this part.

1597 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer

1598 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the  
1599 restaurant's:

1600           (i) limited restaurant license; and  
1601           (ii) alcoholic beverage license issued by the local authority.

1602           (6) Wine, heavy beer, and beer may not be stored, served, or sold in any place other  
1603 than as designated in the licensee's application, unless the licensee first applies for and receives  
1604 approval from the department for a change of location within the restaurant.

1605           (7) (a) (i) A patron may only make alcoholic beverage purchases in the limited  
1606 restaurant from and be served by a person employed, designated, and trained by the licensee to  
1607 sell and serve alcoholic beverages.

1608           (ii) Notwithstanding Subsection (7)(a)(i), a patron who has purchased bottled wine  
1609 from an employee of the restaurant or has carried bottled wine onto the premises of the  
1610 restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the patron  
1611 or others at the patron's table.

1612           (b) Alcoholic beverages shall be delivered by a server to the patron.

1613           (c) Any alcoholic beverage may only be consumed at the patron's table or counter.

1614           (d) Alcoholic beverages may not be served to or consumed by a patron at a bar.

1615           (e) Each restaurant patron may have no more than two alcoholic beverages of any kind  
1616 at a time before the patron.

1617           (8) The alcoholic beverage storage area shall remain locked at all times other than those  
1618 hours and days when alcoholic beverage sales are authorized by law.

1619           (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise  
1620 furnished at a limited restaurant during the following days or hours:

1621           (i) until after the polls are closed on the day of any:  
1622               (A) regular general election;  
1623               (B) regular primary election; or  
1624               (C) statewide special election;  
1625           (ii) until after the polls are closed on the day of any municipal, special district, or school

- 1626 election, but only:
- 1627       (A) within the boundaries of the municipality, special district, or school district; and
- 1628       (B) if required by local ordinance; and
- 1629       (iii) on any other day after 12 midnight and before 12 noon.
- 1630       (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
- 1631 Licenses, for on-premise beer licensees.
- 1632       (10) Alcoholic beverages may not be sold except in connection with an order of food
- 1633 prepared, sold, and served at the restaurant.
- 1634       (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to any:
- 1635       (a) minor;
- 1636       (b) person actually, apparently, or obviously intoxicated;
- 1637       (c) known habitual drunkard; or
- 1638       (d) known interdicted person.
- 1639       (12) (a) (i) Wine and heavy beer may be sold only at prices fixed by the commission.
- 1640       (ii) Wine and heavy beer may not be sold at discount prices on any date or at any time.
- 1641       (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverages
- 1642 to the licensee.
- 1643       (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 1644 over consumption or intoxication.
- 1645       (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 1646 hours of the limited restaurant's business day such as a "happy hour."
- 1647       (e) The sale or service of more than one alcoholic beverage for the price of a single
- 1648 alcoholic beverage is prohibited.
- 1649       (f) The sale or service of an indefinite or unlimited number of alcoholic beverages
- 1650 during any set period for a fixed price is prohibited.
- 1651       (g) A limited restaurant licensee may not engage in a public promotion involving or
- 1652 offering free alcoholic beverages to the general public.
- 1653       (13) Alcoholic beverages may not be purchased for a patron of the restaurant by:

1654 (a) the licensee; or

1655 (b) any employee or agent of the licensee.

1656 (14) (a) A person may not bring onto the premises of a limited restaurant licensee any  
1657 alcoholic beverage for on-premise consumption, except a person may bring, subject to the  
1658 discretion of the licensee, bottled wine onto the premises of any limited restaurant licensee for  
1659 on-premise consumption.

1660 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or its  
1661 officers, managers, employees, or agents may not allow:

1662 (i) a person to bring onto the restaurant premises any alcoholic beverage for on-premise  
1663 consumption; or

1664 (ii) consumption of any alcoholic beverage described in Subsection (14)(b)(i) on its  
1665 premises.

1666 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
1667 or other representative of the licensee upon entering the restaurant.

1668 (d) A wine service may be performed and a service charge assessed by the restaurant as  
1669 authorized by commission rule for wine carried in by a patron.

1670 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and its  
1671 employees may not permit a restaurant patron to carry from the restaurant premises an open  
1672 container that:

1673 (i) is used primarily for drinking purposes; and

1674 (ii) contains any alcoholic beverage.

1675 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed contents  
1676 of a bottle of wine if before removal the bottle has been recorked or recapped.

1677 (16) (a) A minor may not be employed by a limited restaurant licensee to sell or  
1678 dispense alcoholic beverages.

1679 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be  
1680 employed to enter the sale at a cash register or other sales recording device.

1681 (17) An employee of a limited restaurant licensee, while on duty, may not:

1682 (a) consume an alcoholic beverage; or

1683 (b) be intoxicated.

1684 (18) A charge or fee made in connection with the sale, service, or consumption of wine  
1685 or heavy beer may be stated in food or alcoholic beverage menus including:

1686 (a) a service charge; or

1687 (b) a chilling fee.

1688 (19) Each limited restaurant licensee shall display in a prominent place in the restaurant:

1689 (a) the license that is issued by the department; and

1690 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
1691 drugs is a serious crime that is prosecuted aggressively in Utah."

1692 ~~[(20) The following acts or conduct in a restaurant licensed under this part are~~  
1693 ~~considered contrary to the public welfare and morals, and are prohibited upon the premises:]~~

1694 ~~[(a) employing or using any person in the sale or service of alcoholic beverages while~~  
1695 ~~the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the~~  
1696 ~~female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the~~  
1697 ~~buttocks, vulva, or genitals;]~~

1698 ~~[(b) employing or using the services of any person to mingle with the patrons while the~~  
1699 ~~person is unclothed or in attire, costume, or clothing described in Subsection (20)(a);]~~

1700 ~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts,~~  
1701 ~~buttocks, anus, or genitals of any other person;]~~

1702 ~~[(d) permitting any employee or person to wear or use any device or covering, exposed~~  
1703 ~~to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

1704 ~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of~~  
1705 ~~the prohibited activities described in this Subsection (20);]~~

1706 ~~[(f) permitting any person to remain in or upon the premises who exposes to public~~  
1707 ~~view any portion of that person's genitals or anus; or]~~

1708 ~~[(g) showing films, still pictures, electronic reproductions, or other visual reproductions~~  
1709 ~~depicting;]~~

1710 ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral~~  
1711 ~~copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

1712 ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or~~  
1713 ~~genitals;]~~

1714 ~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or~~  
1715 ~~drawings are used to portray, any of the prohibited activities described in this Subsection (20);~~  
1716 ~~or]~~

1717 ~~[(iv) scenes wherein a person displays the vulva, anus, or the genitals.]~~

1718 ~~[(21) Nothing in Subsection (20) precludes a local authority from being more restrictive~~  
1719 ~~of acts or conduct of the type prohibited in Subsection (20).]~~

1720 ~~[(22)(a) Although live entertainment is permitted on the premises of a limited~~  
1721 ~~restaurant licensee, a licensee may not allow any person to perform or simulate sexual acts~~  
1722 ~~prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral~~  
1723 ~~copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or~~  
1724 ~~genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform~~  
1725 ~~only upon a stage or at a designated area approved by the commission.]~~

1726 ~~[(b) Nothing in Subsection (22)(a) precludes a local authority from being more~~  
1727 ~~restrictive of acts or conduct of the type prohibited in Subsection (22)(a).]~~

1728 ~~[(23)]~~ (20) A limited restaurant licensee may not engage in or permit any form of  
1729 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
1730 Part 11, Gambling, on the premises of the restaurant.

1731 ~~[(24)]~~ (21) (a) Each limited restaurant licensee shall maintain an expense ledger or  
1732 record showing in detail:

1733 (i) quarterly expenditures made separately for:

1734 (A) wine;

1735 (B) heavy beer;

1736 (C) beer;

1737 (D) food; and

- 1738 (E) all other items required by the department; and  
1739 (ii) sales made separately for:  
1740 (A) wine;  
1741 (B) heavy beer;  
1742 (C) beer;  
1743 (D) food; and  
1744 (E) all other items required by the department.
- 1745 (b) The record required by Subsection [~~(24)~~] (21)(a) shall be kept:  
1746 (i) in a form approved by the department; and  
1747 (ii) current for each three-month period.
- 1748 (c) Each expenditure shall be supported by:  
1749 (i) delivery tickets;  
1750 (ii) invoices;  
1751 (iii) receipted bills;  
1752 (iv) canceled checks;  
1753 (v) petty cash vouchers; or  
1754 (vi) other sustaining data or memoranda.
- 1755 (d) In addition to the ledger or record maintained under Subsections [~~(24)~~] (21)(a)  
1756 through (c), a limited restaurant licensee shall maintain accounting and other records and  
1757 documents as the department may require.
- 1758 (e) Any restaurant or person acting for the restaurant, who knowingly forges, falsifies,  
1759 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or  
1760 other documents of the restaurant required to be made, maintained, or preserved by this title or  
1761 the rules of the commission for the purpose of deceiving the commission or department, or any  
1762 of their officials or employees, is subject to:
- 1763 (i) the suspension or revocation of the limited restaurant's license; and  
1764 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1765 [~~(25)~~] (22) (a) A limited restaurant licensee may not close or cease operation for a

1766 period longer than 240 hours, unless:

1767 (i) the limited restaurant licensee notifies the department in writing at least seven days  
1768 before the closing; and

1769 (ii) the closure or cessation of operation is first approved by the department.

1770 (b) Notwithstanding Subsection [~~(25)~~] (22)(a), in the case of emergency closure,  
1771 immediate notice of closure shall be made to the department by telephone.

1772 (c) (i) Subject to Subsection [~~(25)~~] (22)(c)(iii), the department may authorize a closure  
1773 or cessation of operation for a period not to exceed 60 days.

1774 (ii) The department may extend the initial period an additional 30 days upon:

1775 (A) written request of the limited restaurant licensee; and

1776 (B) a showing of good cause.

1777 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
1778 commission approval.

1779 (d) Any notice required by Subsection [~~(25)~~] (22)(a) shall include:

1780 (i) the dates of closure or cessation of operation;

1781 (ii) the reason for the closure or cessation of operation; and

1782 (iii) the date on which the licensee will reopen or resume operation.

1783 (e) Failure of the licensee to provide notice and to obtain department authorization  
1784 before closure or cessation of operation shall result in an automatic forfeiture of:

1785 (i) the license; and

1786 (ii) the unused portion of the license fee for the remainder of the license year effective  
1787 immediately.

1788 (f) Failure of the licensee to reopen or resume operation by the approved date shall  
1789 result in an automatic forfeiture of:

1790 (i) the license; and

1791 (ii) the unused portion of the license fee for the remainder of the license year.

1792 [~~(26)~~] (23) Each limited restaurant licensee shall maintain at least 70% of its total  
1793 restaurant business from the sale of food, which does not include service charges.



1794           ~~[(27)]~~ (24) A limited restaurant license may not be transferred from one location to  
1795 another, without prior written approval of the commission.

1796           ~~[(28)]~~ (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange,  
1797 barter, give, or attempt in any way to dispose of the license to any other person whether for  
1798 monetary gain or not.

1799           (b) A limited restaurant license has no monetary value for the purpose of any type of  
1800 disposition.

1801           ~~[(29)]~~ (26) (a) Each server of wine, heavy beer, and beer in a limited restaurant  
1802 licensee's establishment shall keep a written beverage tab for each table or group that orders or  
1803 consumes alcoholic beverages on the premises.

1804           (b) The beverage tab required by Subsection ~~[(29)]~~ (26)(a) shall list the type and  
1805 amount of alcoholic beverages ordered or consumed.

1806           ~~[(30)]~~ (27) A limited restaurant licensee may not make a person's willingness to serve  
1807 alcoholic beverages a condition of employment as a server with the restaurant.

1808           Section 19. Section **32A-4-401** is amended to read:

1809           **32A-4-401. Commission's power to grant licenses -- Limitations.**

1810           (1) (a) For purposes of this part:

1811           (i) "Banquet" means an event:

1812           (A) for which there is a contract:

1813           (I) between any person and a person listed in Subsection (1)(a)(i)(B); and

1814           (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide  
1815 alcoholic beverages at the event;

1816           (B) held at one or more designated locations approved by the commission in or on the  
1817 premises of a:

1818           (I) hotel;

1819           (II) resort facility;

1820           (III) sports center; or

1821           (IV) convention center; and

- 1822 (C) at which food and alcoholic beverages may be sold and served.
- 1823 (ii) "Convention center" is as defined by the commission by rule.
- 1824 (iii) "Hotel" is as defined by the commission by rule.
- 1825 (iv) "Resort facility" is as defined by the commission by rule.
- 1826 (v) "Room service" means service of alcoholic beverages to a guest room of a:
- 1827 (A) hotel; or
- 1828 (B) resort facility.
- 1829 (vi) "Sports center" is as defined by the commission by rule.
- 1830 (b) The commission may issue an on-premise banquet license to any of the following
- 1831 persons for the purpose of allowing the storage, sale, service, and consumption of alcoholic
- 1832 beverages in connection with that person's banquet and room service activities:
- 1833 (i) hotel;
- 1834 (ii) resort facility;
- 1835 (iii) sports center; or
- 1836 (iv) convention center.
- 1837 (c) This chapter is not intended to prohibit ~~liquor~~ alcoholic beverages on the premises
- 1838 of a person listed in Subsection (1) to the extent otherwise permitted by this title.
- 1839 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not
- 1840 at any time aggregate more than that number determined by dividing the population of the state
- 1841 by 30,000.
- 1842 (b) For purposes of this Subsection (2), the population of the state shall be determined
- 1843 by:
- 1844 (i) the most recent United States decennial or special census; or
- 1845 (ii) any other population determination made by the United States or state governments.
- 1846 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet
- 1847 licensee:
- 1848 (a) the host of a contracted banquet may request an on-premise banquet licensee to
- 1849 provide alcoholic beverages served at a banquet; and

1850 (b) an on-premise banquet licensee may provide the alcoholic beverages served at a  
1851 banquet.

1852 (4) At a banquet, an on-premise banquet licensee may provide:

1853 (a) a hosted bar; or

1854 (b) a cash bar.

1855 (5) Nothing in this section shall prohibit a qualified on-premise banquet license  
1856 applicant from applying for a package agency.

1857 (6) (a) The premises of an on-premise banquet license may not be established within  
1858 600 feet of any public or private school, church, public library, public playground, or park, as  
1859 measured by the method in Subsection [~~(7)~~] (6)(d).

1860 (b) The premises of an on-premise banquet license may not be established within 200  
1861 feet of any public or private school, church, public library, public playground, or park, measured  
1862 in a straight line from the nearest entrance of the proposed outlet to the nearest property  
1863 boundary of the public or private school, church, public library, public playground, or park.

1864 (c) The restrictions contained in Subsections (6)(a) and (b) govern unless one of the  
1865 following exemptions applies:

1866 (i) with respect to the establishment of an on-premise banquet license within any  
1867 location, the commission may authorize a variance to reduce the proximity requirements of  
1868 Subsection (6)(a) or (b) if:

1869 (A) the local [~~governing~~] authority [~~has granted~~] grants its written consent to the  
1870 variance;

1871 (B) alternative locations for establishing an on-premise banquet license in the  
1872 community are limited;

1873 (C) the variance is authorized after a public hearing [~~has been~~] is held in the city, town,  
1874 or county, and where practical in the neighborhood concerned; and

1875 (D) after giving full consideration to all of the attending circumstances and the policies  
1876 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
1877 license would not be detrimental to the public health, peace, safety, and welfare of the

1878 community; or

1879 (ii) with respect to the premises of any on-premise banquet license issued by the  
1880 commission that undergoes a change of ownership, the commission may waive or vary the  
1881 proximity requirements of Subsections (6)(a) and (b) in considering whether to grant an  
1882 on-premise banquet license to the new owner of the premises if:

1883 (A) the premises previously received a variance reducing the proximity requirements of  
1884 Subsection (6)(a) or (b); or

1885 (B) a variance from proximity or distance requirements was otherwise allowed under  
1886 this title.

1887 ~~[(7)]~~ (d) With respect to any public or private school, church, public library, public  
1888 playground, or park, the 600 foot limitation described in Subsection (6)(a) is measured from the  
1889 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
1890 property boundary of the public or private school, church, public library, public playground,  
1891 school playground, or park.

1892 ~~[(8)]~~ (7) (a) Nothing in this section prevents the commission from considering the  
1893 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
1894 reaching a decision on a proposed location.

1895 (b) For purposes of this Subsection ~~[(8)]~~ (7), "educational facility" includes:

1896 (i) a nursery school;

1897 (ii) an infant day care center; and

1898 (iii) a trade and technical school.

1899 Section 20. Section **32A-4-402** is amended to read:

1900 **32A-4-402. Application and renewal requirements.**

1901 (1) (a) A person seeking an on-premise banquet license under this part shall file a  
1902 written application with the department, in a form prescribed by the department. The  
1903 application shall be accompanied by:

1904 (i) a nonrefundable \$250 application fee;

1905 (ii) an initial license fee of \$500, which is refundable if a license is not granted;

1906 (iii) written consent of the local authority;

1907 (iv) a copy of the applicant's current business license;

1908 (v) evidence of proximity to any public or private school, church, public library, public

1909 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of

1910 ~~[Subsections]~~ Subsection 32A-4-401(6) ~~[and (7)]~~, the application shall be processed in

1911 accordance with those subsections;

1912 (vi) a bond as specified by Section 32A-4-405;

1913 (vii) a description or floor plan and boundary map of the premises, where appropriate,

1914 of the on-premise banquet license applicant's location, designating:

1915 (A) the location at which the on-premise banquet license applicant proposes that

1916 alcoholic beverages be stored; and

1917 (B) the designated locations on the premises of the applicant from which the on-premise

1918 banquet license applicant proposes that alcoholic beverages be sold or served, and consumed;

1919 (viii) evidence that the on-premise banquet license applicant is carrying public liability

1920 insurance in an amount and form satisfactory to the department;

1921 (ix) evidence that the on-premise banquet license applicant is carrying dramshop

1922 insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

1923 (x) a signed consent form stating that the on-premise banquet license applicant will

1924 permit any authorized representative of the commission, department, or any law enforcement

1925 officer unrestricted right to enter the on-premise banquet premises;

1926 (xi) in the case of an applicant that is a partnership, corporation, or limited liability

1927 company, proper verification evidencing that the person or persons signing the on-premise

1928 banquet license application are authorized to so act on behalf of the partnership, corporation, or

1929 limited liability company; and

1930 (xii) any other information the commission or department may require.

1931 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv),

1932 and (vi) if the applicant is:

1933 (i) a state agency; or

1934 (ii) a political subdivision of the state including:  
1935 (A) a county; or  
1936 (B) a municipality.

1937 (2) Additional locations in or on the premises of an on-premise banquet license  
1938 applicant's business from which the on-premise banquet license applicant may propose that  
1939 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's  
1940 original application may be approved by the department upon proper application, in accordance  
1941 with guidelines approved by the commission.

1942 (3) (a) All on-premise banquet licenses expire on October 31 of each year.

1943 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that  
1944 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed renewal  
1945 application to the department no later than September 30.

1946 (ii) A licensee is not required to submit the renewal fee if the licensee is:  
1947 (A) a state agency; or  
1948 (B) a political subdivision of the state including:  
1949 (I) a county; or  
1950 (II) a municipality.

1951 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
1952 the license effective on the date the existing license expires.

1953 (d) Renewal applications shall be in a form as prescribed by the department.

1954 (4) To ensure compliance with Subsection 32A-4-406[~~(27)~~] (24), the commission may  
1955 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to  
1956 immediately notify the department of any change in:  
1957 (a) ownership of the licensee;  
1958 (b) for a corporate owner, the:  
1959 (i) corporate officers or directors; or  
1960 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
1961 corporation; or

1962 (c) for a limited liability company:

1963 (i) managers; or

1964 (ii) members owning at least 20% of the limited liability company.

1965 Section 21. Section **32A-4-406** is amended to read:

1966 **32A-4-406. Operational restrictions.**

1967 Each person granted an on-premise banquet license and the employees and management  
1968 personnel of the on-premise banquet licensee shall comply with this title, the rules of the  
1969 commission, and the following conditions and requirements. Failure to comply may result in a  
1970 suspension or revocation of the license or other disciplinary action taken against individual  
1971 employees or management personnel.

1972 (1) A person involved in the sale or service of alcoholic beverages under the on-premise  
1973 banquet license shall:

1974 (a) be under the supervision and direction of the on-premise banquet licensee; and

1975 (b) complete the seminar provided for in Section 62A-15-401.

1976 (2) (a) Liquor may not be purchased by the on-premise banquet licensee except from  
1977 state stores or package agencies.

1978 (b) Liquor purchased in accordance with Subsection (2)(a) may be transported by the  
1979 on-premise banquet licensee from the place of purchase to the licensed premises.

1980 (c) Payment for liquor shall be made in accordance with rules established by the  
1981 commission.

1982 (3) Alcoholic beverages may be sold or provided at a banquet subject to the restrictions  
1983 set forth in this Subsection (3).

1984 (a) An on-premise banquet licensee may sell or provide any primary spirituous liquor  
1985 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered  
1986 dispensing system approved by the department in accordance with commission rules adopted  
1987 under this title, except that:

1988 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1989 system if used as a secondary flavoring ingredient in a beverage subject to the following

1990 restrictions:

1991 (A) the secondary ingredient may be dispensed only in conjunction with the purchase of  
1992 a primary spirituous liquor;

1993 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;

1994 (C) the on-premise banquet licensee shall designate a location where flavorings are  
1995 stored on the floor plan provided to the department; and

1996 (D) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

1997 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1998 system if used:

1999 (A) as a flavoring on desserts; and

2000 (B) in the preparation of flaming food dishes, drinks, and desserts;

2001 (iii) each attendee may have no more than 2.75 ounces of spirituous liquor at a time  
2002 before the attendee; and

2003 (iv) each attendee may have no more than one spirituous liquor drink at a time before  
2004 the attendee.

2005 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to  
2006 exceed five ounces per glass or individual portion.

2007 (B) An individual portion may be served to an attendee in more than one glass as long  
2008 as the total amount of wine does not exceed five ounces.

2009 (C) An individual portion of wine is considered to be one alcoholic beverage under  
2010 Subsection (5)(c).

2011 (ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed by  
2012 the commission.

2013 (iii) A wine service may be performed and a service charge assessed by the on-premise  
2014 banquet licensee as authorized by commission rule for wine purchased on the banquet premises.

2015 (c) (i) Heavy beer may be served in original containers not exceeding one liter at prices  
2016 fixed by the commission.

2017 (ii) A service charge may be assessed by the on-premise banquet licensee as authorized



2018 by commission rule for heavy beer purchased on the banquet premises.

2019 (d) (i) Except as provided in Subsection (3)(d)(ii), beer may be sold and served for  
2020 on-premise consumption:

2021 (A) in an open container; and

2022 (B) on draft.

2023 (ii) Beer sold pursuant to Subsection (3)(d)(i) shall be in a size of container that does  
2024 not exceed two liters, except that beer may not be sold to an individual attendee in a container  
2025 size that exceeds one liter.

2026 (4) Alcoholic beverages may not be stored, served, or sold in any place other than as  
2027 designated in the on-premise banquet licensee's application, except that additional locations in  
2028 or on the premises of an on-premise banquet licensee may be approved in accordance with  
2029 guidelines approved by the commission as provided in Subsection 32A-4-402(2).

2030 (5) (a) An attendee may only make alcoholic beverage purchases from and be served by  
2031 a person employed, designated, and trained by the on-premise banquet licensee to sell and serve  
2032 alcoholic beverages.

2033 (b) Notwithstanding Subsection (5)(a), an attendee who has purchased bottled wine  
2034 from an employee of the on-premise banquet licensee may thereafter serve wine from the bottle  
2035 to the attendee or others at the attendee's table.

2036 (c) Each attendee may have no more than two alcoholic beverages of any kind at a time  
2037 before the attendee.

2038 (6) The alcoholic beverage storage area shall remain locked at all times other than those  
2039 hours and days when alcoholic beverage sales are authorized by law.

2040 (7) (a) Except as provided in Subsection (7)(b), alcoholic beverages may be offered for  
2041 sale, sold, served, or otherwise furnished from 10 a.m. to 1 a.m. seven days a week:

2042 (i) at a banquet; or

2043 (ii) in connection with room service.

2044 (b) Notwithstanding Subsection (7)(a), a sale or service of [~~alcoholic beverages~~] liquor  
2045 may not occur at a banquet or in connection with room service until after the polls are closed on

2046 the day of:

2047 (i) a regular general election;

2048 (ii) a regular primary election; or

2049 (iii) a statewide special election.

2050 (8) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

2051 (a) minor;

2052 (b) person actually, apparently, or obviously intoxicated;

2053 (c) known habitual drunkard; or

2054 (d) known interdicted person.

2055 (9) (a) (i) Liquor may be sold only at prices fixed by the commission.

2056 (ii) Liquor may not be sold at discount prices on any date or at any time.

2057 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage  
2058 to the licensee.

2059 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
2060 over consumption or intoxication.

2061 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
2062 hours of the on-premise banquet licensee's business day such as a "happy hour."

2063 (e) The sale or service of more than one alcoholic beverage for the price of a single  
2064 alcoholic beverage is prohibited.

2065 (f) An on-premise banquet licensee may not engage in a public promotion involving or  
2066 offering free alcoholic beverages to the general public.

2067 (10) Alcoholic beverages may not be purchased for an attendee by:

2068 (a) the on-premise banquet licensee; or

2069 (b) any employee or agent of the on-premise banquet licensee.

2070 (11) An attendee of a banquet may not bring any alcoholic beverage into or onto, or  
2071 remove any alcoholic beverage from the premises of a banquet.

2072 (12) (a) Except as otherwise provided in this title, the sale and service of alcoholic  
2073 beverages by an on-premise banquet licensee at a banquet shall be made only for consumption at

2074 the location of the banquet.

2075 (b) The host of a banquet, an attendee, or any other person other than the on-premise  
2076 banquet licensee or its employees, may not remove any alcoholic beverage from the premises of  
2077 the banquet.

2078 (13) An on-premise banquet licensee employee shall remain at the banquet at all times  
2079 when alcoholic beverages are being sold, served, or consumed at the banquet.

2080 (14) (a) An on-premise banquet licensee may not leave any unsold alcoholic beverages  
2081 at the banquet following the conclusion of the banquet.

2082 (b) At the conclusion of a banquet, the on-premise banquet licensee or its employees,  
2083 shall:

2084 (i) destroy any opened and unused alcoholic beverages that are not saleable, under  
2085 conditions established by the department; and

2086 (ii) return to the on-premise banquet licensee's approved locked storage area any:

2087 (A) opened and unused alcoholic beverage that is saleable; and

2088 (B) unopened containers of alcoholic beverages.

2089 (15) Except as provided in Subsection (14), any open or sealed container of alcoholic  
2090 beverages not sold or consumed at a banquet:

2091 (a) shall be stored by the on-premise banquet licensee in the licensee's approved locked  
2092 storage area; and

2093 (b) may be used at more than one banquet.

2094 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense, or  
2095 otherwise furnish alcoholic beverages in connection with the licensee's banquet and room  
2096 service activities.

2097 (17) An employee of an on-premise banquet licensee, while on duty, may not:

2098 (a) consume an alcoholic beverage; or

2099 (b) be intoxicated.

2100 (18) An on-premise banquet licensee shall prominently display at each banquet at which  
2101 alcoholic beverages are sold or served:

2102 (a) a copy of the licensee's on-premise banquet license; and

2103 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
2104 drugs is a serious crime that is prosecuted aggressively in Utah."

2105 ~~[(19) The following acts or conduct are considered contrary to the public welfare and  
2106 morals, and are prohibited at and during the hours of a banquet:]~~

2107 ~~[(a) employing or using any person in the sale or service of alcoholic beverages while  
2108 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the  
2109 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the  
2110 buttocks, vulva, or genitals;]~~

2111 ~~[(b) employing or using the services of any person to mingle with the patrons while the  
2112 person is unclothed or in attire, costume, or clothing described in Subsection (19)(a);]~~

2113 ~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts,  
2114 buttocks, anus, or genitals of any other person;]~~

2115 ~~[(d) permitting any employee or person to wear or use any device or covering, exposed  
2116 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

2117 ~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of  
2118 the prohibited activities described in this Subsection (19);]~~

2119 ~~[(f) permitting any person to remain in or upon the premises who exposes to public  
2120 view any portion of that person's genitals or anus; or]~~

2121 ~~[(g) showing films, still pictures, electronic reproductions, or other visual reproductions  
2122 depicting;]~~

2123 ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral  
2124 copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

2125 ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or  
2126 genitals;]~~

2127 ~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or  
2128 drawings are used to portray, any of the prohibited activities described in this Subsection (19);  
2129 or]~~

2130 ~~[(iv) scenes wherein a person displays the vulva, anus, or the genitals.]~~

2131 ~~[(20) Nothing in Subsection (19) precludes a local authority from being more restrictive~~  
2132 ~~of acts or conduct of the type prohibited in Subsection (19).]~~

2133 ~~[(21) (a) Although live entertainment is permitted at a banquet, an on-premise banquet~~  
2134 ~~licensee may not allow any person to perform or simulate sexual acts prohibited by Utah law,~~  
2135 ~~including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the~~  
2136 ~~touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of~~  
2137 ~~the pubic hair, anus, vulva, or genitals.]~~

2138 ~~[(b) Nothing in Subsection (21)(a) precludes a local authority from being more~~  
2139 ~~restrictive of acts or conduct of the type prohibited in Subsection (21)(a).]~~

2140 ~~[(22)]~~ (19) An on-premise banquet licensee may not engage in or permit any form of  
2141 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
2142 Part 11, Gambling, on the premises of the:

2143 (a) hotel;

2144 (b) resort facility;

2145 (c) sports center; or

2146 (d) convention center.

2147 ~~[(23)]~~ (20) (a) An on-premise banquet licensee shall maintain accounting and such other  
2148 records and documents as the commission or department may require.

2149 (b) An on-premise banquet licensee or person acting for the on-premise banquet  
2150 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the  
2151 entries in any of the books of account or other documents of the on-premise banquet licensee  
2152 required to be made, maintained, or preserved by this title or the rules of the commission for the  
2153 purpose of deceiving the commission or department, or any of their officials or employees, is  
2154 subject to:

2155 (i) the suspension or revocation of the on-premise banquet license; and

2156 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2157 ~~[(24)]~~ (21) (a) For the purpose described in Subsection ~~[(24)]~~ (21)(b), an on-premise

2158 banquet licensee shall provide the department with advance notice of a scheduled banquet in  
2159 accordance with rules made by the commission in accordance with Title 63, Chapter 46a, Utah  
2160 Administrative Rulemaking Act.

2161 (b) The advance notice required by Subsection [~~(24)~~] (21)(a) is required to provide any  
2162 of the following the opportunity to conduct a random inspection of a banquet:

2163 (i) an authorized representative of the commission or the department; or

2164 (ii) a law enforcement officer.

2165 [~~(25)~~] (22) An on-premise banquet licensee shall maintain at least 50% of its total  
2166 annual banquet gross receipts from the sale of food, not including:

2167 (a) mix for alcoholic beverages; and

2168 (b) charges in connection with the service of alcoholic beverages.

2169 [~~(26)~~] (23) A person may not transfer an on-premise banquet license from one business  
2170 location to another without prior written approval of the commission.

2171 [~~(27)~~] (24) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange,  
2172 barter, give, or attempt in any way to dispose of the license to any other person, whether for  
2173 monetary gain or not.

2174 (b) An on-premise banquet license has no monetary value for the purpose of any type of  
2175 disposition.

2176 [~~(28)~~] (25) (a) Room service of alcoholic beverages to a guest room of a hotel or resort  
2177 facility shall be provided in person by an on-premise banquet licensee employee only to an adult  
2178 guest in the guest room.

2179 (b) Alcoholic beverages may not be left outside a guest room for retrieval by a guest.

2180 (c) An on-premise banquet licensee may only provide alcoholic beverages for room  
2181 service in sealed containers.

2182 Section 22. Section **32A-5-102** is amended to read:

2183 **32A-5-102. Application and renewal requirements.**

2184 (1) A club seeking a class A, B, C, or D private club license under this chapter shall file  
2185 a written application with the department in a form prescribed by the department. The

2186 application shall be accompanied by:

2187 (a) a nonrefundable \$250 application fee;

2188 (b) an initial license fee of \$2,500, which is refundable if a license is not granted;

2189 (c) written consent of the local authority;

2190 (d) a copy of the applicant's current business license;

2191 (e) evidence of proximity to any public or private school, church, public library, public

2192 playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of

2193 Subsections 32A-5-101(7) and (8), the application shall be processed in accordance with those

2194 subsections;

2195 (f) evidence that the applicant operates a club where a variety of food is prepared and  
2196 served in connection with dining accommodations;

2197 (g) a bond as specified by Section 32A-5-106;

2198 (h) a floor plan of the club premises, including consumption areas and the area where  
2199 the applicant proposes to keep and store liquor;

2200 (i) evidence that the club is carrying public liability insurance in an amount and form  
2201 satisfactory to the department;

2202 (j) evidence that the club is carrying dramshop insurance coverage of at least \$500,000  
2203 per occurrence and \$1,000,000 in the aggregate;

2204 (k) a copy of the club's bylaws or house rules, and any amendments to those  
2205 documents, which shall be kept on file with the department at all times;

2206 (l) a signed consent form stating that the club and its management will permit any  
2207 authorized representative of the commission, department, or any law enforcement officer  
2208 unrestricted right to enter the club premises;

2209 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,  
2210 C, or D private club licensee; and

2211 (ii) evidence that the private club meets the requirements for the classification for which  
2212 the club is applying;

2213 (n) in the case of a partnership, corporation, or limited liability company applicant,

2214 proper verification evidencing that the person or persons signing the private club application are  
 2215 authorized to so act on behalf of the partnership, corporation, or limited liability company; and

2216 (o) any other information the commission or department may require.

2217 (2) (a) The commission may refuse to issue a license if the commission determines that  
 2218 any provisions of the club's bylaws or house rules, or amendments to those documents are not:

2219 (i) reasonable; and

2220 (ii) consistent with:

2221 (A) the declared nature and purpose of the applicant; and

2222 (B) the purposes of this chapter.

2223 (b) Club bylaws or house rules shall include provisions respecting the following:

2224 (i) standards of eligibility for members;

2225 (ii) limitation of members, consistent with the nature and purpose of the private club;

2226 (iii) the period for which dues are paid, and the date upon which the period expires;

2227 (iv) provisions for dropping members for the nonpayment of dues or other cause; and

2228 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor cards.

2229 (3) (a) All private club licenses expire on June 30 of each year.

2230 (b) A person desiring to renew that person's private club license shall submit by no later  
 2231 than May 31:

2232 (i) a completed renewal application to the department; and

2233 (ii) a renewal fee in the following amount:

2234	Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
2235	under \$10,000	\$1,000
2236	equals or exceeds \$10,000 but less than \$25,000	\$1,250
2237	equals or exceeds \$25,000 but less than \$75,000	\$1,750
2238	equals or exceeds \$75,000	\$2,250[-]

2239 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
 2240 the license effective on the date the existing license expires.

2241 (d) Renewal applications shall be in a form as prescribed by the department.



2242 (4) To ensure compliance with Subsection 32A-5-107[(44)] (40), the commission may  
2243 suspend or revoke any private club license if the private club licensee does not immediately  
2244 notify the department of any change in:

2245 (a) ownership of the club;

2246 (b) for a corporate owner, the:

2247 (i) corporate officers or directors; or

2248 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
2249 corporation; or

2250 (c) for a limited liability company:

2251 (i) managers; or

2252 (ii) members owning at least 20% of the limited liability company.

2253 Section 23. Section **32A-5-107** is amended to read:

2254 **32A-5-107. Operational restrictions.**

2255 Each club granted a private club license and the employees, management personnel, and  
2256 members of the club shall comply with the following conditions and requirements. Failure to  
2257 comply may result in a suspension or revocation of the license or other disciplinary action taken  
2258 against individual employees or management personnel.

2259 (1) Each private club shall have a governing body that:

2260 (a) consists of three or more members of the club; and

2261 (b) holds regular meetings to:

2262 (i) review membership applications; and

2263 (ii) conduct any other business as required by the bylaws or house rules of the private  
2264 club.

2265 (2) (a) Each private club may admit an individual as a member only on written  
2266 application signed by the applicant, subject to:

2267 (i) the applicant paying an application fee as required by Subsection (4); and

2268 (ii) investigation, vote, and approval of a quorum of the governing body.

2269 (b) (i) Admissions shall be recorded in the official minutes of a regular meeting of the

2270 governing body.

2271 (ii) An application, whether approved or disapproved, shall be filed as a part of the  
2272 official records of the licensee.

2273 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an  
2274 applicant and immediately accord the applicant temporary privileges of a member until the  
2275 governing body completes its investigation and votes on the application, subject to the following  
2276 conditions:

2277 (i) the applicant shall:

2278 (A) submit a written application; and

2279 (B) pay the application fee required by Subsection (4);

2280 (ii) the governing body votes on the application at its next meeting which shall take  
2281 place no later than 31 days following the day on which the application was submitted; and

2282 (iii) the applicant's temporary membership privileges are terminated if the governing  
2283 body disapproves the application.

2284 (d) The spouse of a member of any class of private club is entitled to all the rights and  
2285 privileges of the member:

2286 (i) to the extent permitted by the bylaws or house rules of the private club; and

2287 (ii) except to the extent restricted by this title.

2288 (e) The minor child of a member of a class A private club is entitled to all the rights and  
2289 privileges of the member:

2290 (i) to the extent permitted by the bylaws or house rules of the private club; and

2291 (ii) except to the extent restricted by this title.

2292 (3) (a) Each private club shall maintain a current and complete membership record  
2293 showing:

2294 (i) the date of application of each proposed member;

2295 (ii) each member's address;

2296 (iii) the date the governing body approved a member's admission;

2297 (iv) the date initiation fees and dues were assessed and paid; and

- 2298 (v) the serial number of the membership card issued to each member.
- 2299 (b) A current record shall also be kept indicating when members are dropped or  
2300 resigned.
- 2301 (4) (a) Each private club shall establish in the club bylaws or house rules application  
2302 fees and membership dues:
- 2303 (i) as established by commission rules; and
- 2304 (ii) which are collected from all members.
- 2305 (b) An application fee:
- 2306 (i) shall not be less than \$4;
- 2307 (ii) shall be paid when the applicant applies for membership; and
- 2308 (iii) at the discretion of the private club, may be credited toward membership dues if the  
2309 governing body approves the applicant as a member.
- 2310 (5) (a) Each private club may, in its discretion, allow an individual to be admitted to or  
2311 use the club premises as a guest only under the following conditions:
- 2312 (i) each guest must be previously authorized by one of the following who agrees to host  
2313 the guest into the club:
- 2314 (A) an active member of the club; or
- 2315 (B) a holder of a current visitor card;
- 2316 (ii) each guest must be known by the guest's host based on a preexisting bonafide  
2317 business or personal relationship with the host prior to the guest's admittance to the club;
- 2318 (iii) each guest must be accompanied by the guest's host for the duration of the guest's  
2319 visit to the club;
- 2320 (iv) each guest's host must remain on the club premises for the duration of the guest's  
2321 visit to the club;
- 2322 (v) each guest's host is responsible for the cost of all services extended to the guest;
- 2323 (vi) each guest enjoys only those privileges derived from the guest's host for the  
2324 duration of the guest's visit to the club;
- 2325 (vii) an employee of the club, while on duty, may not act as a host for a guest;

2326 (viii) an employee of the club, while on duty, may not attempt to locate a member or  
2327 current visitor card holder to serve as a host for a guest with whom the member or visitor card  
2328 holder has no acquaintance based on a preexisting bonafide business or personal relationship  
2329 prior to the guest's arrival at the club; and

2330 (ix) a club and its employees may not enter into an agreement or arrangement with a  
2331 club member or holder of a current visitor card to indiscriminately host members of the general  
2332 public into the club as guests.

2333 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

2334 (i) the licensee is a class B private club; and

2335 (ii) the guest is a member of the same fraternal organization as the private club licensee.

2336 (6) Each private club may, in its discretion, issue visitor cards to allow individuals to  
2337 enter and use the club premises on a temporary basis under the following conditions:

2338 (a) each visitor card shall be issued for a period not to exceed three weeks;

2339 (b) a fee of not less than \$4 shall be assessed for each visitor card issued;

2340 (c) a visitor card shall not be issued to a minor;

2341 (d) a holder of a visitor card may not host more than seven guests at one time;

2342 (e) each visitor card issued shall include:

2343 (i) the visitor's full name and signature;

2344 (ii) the date the card was issued;

2345 (iii) the date the card expires;

2346 (iv) the club's name; and

2347 (v) the serial number of the card; and

2348 (f) (i) the club shall maintain a current record of the issuance of each visitor card on the  
2349 club premises; and

2350 (ii) the record described in Subsection (6)(f)(i) shall:

2351 (A) be available for inspection by the department; and

2352 (B) include:

2353 (I) the name of the person to whom the card was issued;

2354 (II) the date the card was issued;  
2355 (III) the date the card expires; and  
2356 (IV) the serial number of the card.

2357 (7) A private club may not sell alcoholic beverages to or allow any patron to be  
2358 admitted to or use the club premises other than:

2359 (a) a member;  
2360 (b) a visitor who holds a valid visitor card issued under Subsection (6); or  
2361 (c) a guest of:  
2362 (i) a member; or  
2363 (ii) a holder of a current visitor card.

2364 (8) (a) A minor may not be:  
2365 (i) a member, officer, director, or trustee of a private club;  
2366 (ii) issued a visitor card;  
2367 ~~[(iii) admitted into, use, or be on the premises of a class D private club except to the~~  
2368 ~~extent authorized under Subsections (8)(b) through (g);]~~

2369 ~~[(iv)]~~ (iii) admitted into, use, or be on the premises of any lounge or bar area, as defined  
2370 by commission rule, of any private club except to the extent authorized under Subsection  
2371 (8)(c)(ii); ~~[or]~~

2372 ~~[(v)]~~ (iv) admitted into, use, or be on the premises of any class D private club ~~[that]~~:  
2373 ~~[(A) provides sexually oriented adult entertainment as defined by commission rule or by~~  
2374 ~~local ordinance; or]~~

2375 ~~[(B)]~~ (A) that operates as a sexually oriented business as defined ~~[by commission rule~~  
2376 ~~or]~~ by local ordinance~~[-]; or~~

2377 (B) when a sexually oriented entertainer is performing on the premises; or  
2378 (v) admitted into, use, or be on the premises of a class D private club except to the  
2379 extent authorized under Subsections (8)(b) through (g).

2380 (b) ~~[At]~~ Except as provided in Subsection (8)(a)(iv), at the discretion of a class D  
2381 private club, a minor may be admitted into, use, or be on the premises of a class D private club

2382 under the following circumstances:

2383 (i) during periods when no alcoholic beverages are sold, served, otherwise furnished, or  
2384 consumed on the premises, but in no event later than 1 p.m.;

2385 (ii) when accompanied at all times by a member or holder of a current visitor card who  
2386 is the minor's parent, legal guardian, or spouse; and

2387 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food  
2388 service provider.

2389 (c) A minor may be employed by a class D private club on the premises of the club if:

2390 (i) the parent or legal guardian of the minor owns or operates the class D private club;

2391 or

2392 (ii) the minor performs maintenance and cleaning services during the hours when the  
2393 club is not open for business.

2394 (d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be  
2395 admitted into, use, or be on the premises of a dance or concert hall if:

2396 (A) the dance or concert hall is located:

2397 (I) on the premises of a class D private club; or

2398 (II) on the property that immediately adjoins the premises of and is operated by a class  
2399 D private club; and

2400 (B) the commission has issued the class D private club a permit to operate a minor  
2401 dance or concert hall based on the criteria described in Subsection (8)(d)(iii).

2402 (ii) If the dance or concert hall is located on the premises of a class D private club, a  
2403 minor must be properly hosted in accordance with Subsection (5) by:

2404 (A) a member; or

2405 (B) a holder of a current visitor card.

2406 (iii) The commission may issue a minor dance or concert hall permit if:

2407 (A) the club's lounge, bar, and alcoholic beverage consumption area is:

2408 (I) not accessible to minors;

2409 (II) clearly defined; and

- 2410 (III) separated from the dance or concert hall area by walls, multiple floor levels, or  
2411 other substantial physical barriers;
- 2412 (B) any bar or dispensing area is not visible to minors;
- 2413 (C) no consumption of alcoholic beverages may occur in:
- 2414 (I) the dance or concert hall area; or
- 2415 (II) any area of the club accessible to a minor;
- 2416 (D) the club maintains sufficient security personnel to prevent the passing of beverages  
2417 from the club's lounge, bar, or alcoholic beverage consumption areas to:
- 2418 (I) the dance or concert hall area; or
- 2419 (II) any area of the club accessible to a minor;
- 2420 (E) there are separate entrances, exits, and restroom facilities from the club's lounge,  
2421 bar, and alcoholic beverage consumption areas than for:
- 2422 (I) the dance or concert hall area; or
- 2423 (II) any area accessible to a minor; and
- 2424 (F) the club complies with any other restrictions imposed by the commission by rule.
- 2425 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal  
2426 guardian who is a member or holder of a current visitor card may be admitted into, use, or be on  
2427 the premises of a concert hall described in Subsection (8)(d)(i) if:
- 2428 (i) all requirements of Subsection (8)(d) are met; and
- 2429 (ii) all signage, product, and dispensing equipment containing recognition of alcoholic  
2430 beverages is not visible to the minor.
- 2431 (f) A minor under 18 years of age but who is 14 years of age or older who is not  
2432 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of a  
2433 concert hall described in Subsection (8)(d)(i) if:
- 2434 (i) all requirements of Subsections (8)(d) and (8)(e)(ii) are met; and
- 2435 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the  
2436 class D private club.
- 2437 (g) The commission may suspend or revoke a minor dance or concert permit issued to a

2438 class D private club and suspend or revoke the license of the class D private club if:

2439 (i) the club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);

2440 (ii) the club sells, serves, or otherwise furnishes alcoholic beverages to a minor;

2441 (iii) the licensee or a supervisory or managerial level employee of the private club is

2442 convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities

2443 that occurred on:

2444 (A) the licensed premises; or

2445 (B) the dance or concert hall that is located on property that immediately adjoins the

2446 premises of and is operated by the class D private club;

2447 (iv) there are three or more convictions of patrons of the private club under Title 58,

2448 Chapter 37, Utah Controlled Substances Act, based on activities that occurred on:

2449 (A) the licensed premises; or

2450 (B) the dance or concert hall that is located on property that immediately adjoins the

2451 premises of and is operated by the class D private club;

2452 (v) there is more than one conviction:

2453 (A) of:

2454 (I) the licensee;

2455 (II) an employee of the licensee;

2456 (III) an entertainer contracted by the licensee; or

2457 (IV) a patron of the private club; and

2458 (B) made on the basis of lewd acts or lewd entertainment prohibited by this title that

2459 occurred on:

2460 (I) the licensed premises; or

2461 (II) the dance or concert hall that is located on property that immediately adjoins the

2462 premises of and is operated by the class D private club; or

2463 (vi) the commission finds acts or conduct contrary to the public welfare and morals

2464 involving lewd acts or lewd entertainment prohibited by this title that occurred on:

2465 (A) the licensed premises; or



2466 (B) the dance or concert hall that is located on property that immediately adjoins the  
2467 premises of and is operated by the class D private club.

2468 (h) Nothing in this Subsection (8) shall prohibit a class D private club from selling,  
2469 serving, or otherwise furnishing alcoholic beverages in a dance or concert area located on the  
2470 club premises on days and times when the club does not allow minors into those areas.

2471 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being  
2472 more restrictive of a minor's admittance to, use of, or presence on the premises of any private  
2473 club.

2474 [~~(9) An employee of a club, while on duty, may not:~~]

2475 [~~(a) consume an alcoholic beverage;~~]

2476 [~~(b) be intoxicated; or~~]

2477 [~~(c) act as a host for a guest.~~]

2478 [~~(10)~~] (9) (a) Each private club shall maintain an expense ledger or record showing in  
2479 detail all expenditures separated by payments for:

2480 (i) malt or brewed beverages;

2481 (ii) liquor;

2482 (iii) food;

2483 (iv) detailed payroll;

2484 (v) entertainment;

2485 (vi) rent;

2486 (vii) utilities;

2487 (viii) supplies; and

2488 (ix) all other expenditures.

2489 (b) The record required by this Subsection [~~(10)~~] (9) shall be:

2490 (i) kept in a form approved by the department; and

2491 (ii) balanced each month.

2492 (c) Each expenditure shall be supported by:

2493 (i) delivery tickets;

- 2494 (ii) invoices;  
2495 (iii) receipted bills;  
2496 (iv) canceled checks;  
2497 (v) petty cash vouchers; or  
2498 (vi) other sustaining data or memoranda.
- 2499 (d) All invoices and receipted bills for the current calendar or fiscal year documenting  
2500 purchases made by the club shall also be maintained.
- 2501 ~~[(11)]~~ (10) (a) Each private club shall maintain a minute book that is posted currently  
2502 by the club.
- 2503 (b) The minute book required by this Subsection ~~[(11)]~~ (10) shall contain the minutes of  
2504 all regular and special meetings of the governing body.
- 2505 (c) Membership lists shall also be maintained.
- 2506 ~~[(12)]~~ (11) (a) Each private club shall maintain current copies of the club's current  
2507 bylaws and current house rules.
- 2508 (b) Changes in the bylaws or house rules:
- 2509 (i) are not effective unless submitted to the department within ten days after adoption;  
2510 and
- 2511 (ii) become effective 15 days after received by the department unless rejected by the  
2512 department before the expiration of the 15-day period.
- 2513 ~~[(13)]~~ (12) Each private club shall maintain accounting and other records and  
2514 documents as the department may require.
- 2515 ~~[(14)]~~ (13) Any club or person acting for the club, who knowingly forges, falsifies,  
2516 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or  
2517 other documents of the club required to be made, maintained, or preserved by this title or the  
2518 rules of the commission for the purpose of deceiving the commission or the department, or any  
2519 of their officials or employees, is subject to:
- 2520 (a) the suspension or revocation of the club's license; and  
2521 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

2522           ~~[(15)]~~ (14) (a) Each private club shall maintain and keep all the records required by this  
2523 section and all other books, records, receipts, and disbursements maintained or used by the  
2524 licensee, as the department requires, for a minimum period of three years.

2525           (b) All records, books, receipts, and disbursements are subject to inspection by  
2526 authorized representatives of the commission and the department.

2527           (c) The club shall allow the department, through its auditors or examiners, to audit all  
2528 records of the club at times the department considers advisable.

2529           (d) The department shall audit the records of the licensee at least once annually.

2530           ~~[(16)]~~ (15) Each private club shall own or lease premises suitable for the club's  
2531 activities.

2532           ~~[(17)]~~ (16) (a) A private club may not maintain facilities in any manner that barricades  
2533 or conceals the club operation.

2534           (b) Any member of the commission, authorized department personnel, or any peace  
2535 officer shall, upon presentation of credentials, be admitted immediately to the club and  
2536 permitted without hindrance or delay to inspect completely the entire club premises and all  
2537 books and records of the licensee, at any time during which the same are open for the  
2538 transaction of business to its members.

2539           ~~[(18)]~~ (17) Any public advertising related to a private club by the following shall clearly  
2540 identify a club as being "a private club for members":

2541           (a) the private club;

2542           (b) the employees or agents of the private club; or

2543           (c) any person under a contract or agreement with the club.

2544           ~~[(19)]~~ (18) A private club must have food available at all times when alcoholic  
2545 beverages are sold, served, or consumed on the premises.

2546           ~~[(20)]~~ (19) (a) Liquor may not be purchased by a private club licensee except from state  
2547 stores or package agencies.

2548           (b) Liquor purchased in accordance with Subsection ~~[(20)]~~ (19)(a) may be transported  
2549 by the licensee from the place of purchase to the licensed premises.

2550 (c) Payment for liquor shall be made in accordance with rules established by the  
2551 commission.

2552 ~~[(21)]~~ (20) A private club licensee may sell or provide any primary spirituous liquor  
2553 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered  
2554 dispensing system approved by the department in accordance with commission rules adopted  
2555 under this title, except that:

2556 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
2557 system if used as a secondary flavoring ingredient in a beverage subject to the following  
2558 restrictions:

2559 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of a  
2560 primary spirituous liquor;

2561 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

2562 (iii) the private club licensee shall designate a location where flavorings are stored on  
2563 the floor plan provided to the department; and

2564 (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

2565 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
2566 system if used:

2567 (i) as a flavoring on desserts; and

2568 (ii) in the preparation of flaming food dishes, drinks, and desserts; and

2569 (c) each club patron may have no more than 2.75 ounces of spirituous liquor at a time  
2570 before the patron.

2571 ~~[(22)]~~ (21) (a) (i) Wine may be sold and served by the glass or an individual portion not  
2572 to exceed five ounces per glass or individual portion.

2573 (ii) An individual portion may be served to a patron in more than one glass as long as  
2574 the total amount of wine does not exceed five ounces.

2575 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
2576 Subsection ~~[(26)]~~ (25)(c).

2577 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed

2578 by the commission to tables of four or more persons.

2579 (ii) Wine may be sold and served in containers not exceeding 750 ~~[ml]~~ milliliters at  
2580 prices fixed by the commission to tables of less than four persons.

2581 (c) A wine service may be performed and a service charge assessed by the private club  
2582 as authorized by commission rule for wine purchased at the private club.

2583 ~~[(23)]~~ (22) (a) Heavy beer may be served in original containers not exceeding one liter  
2584 at prices fixed by the commission.

2585 (b) A service charge may be assessed by the private club for heavy beer purchased at  
2586 the private club.

2587 ~~[(24)]~~ (23) (a) (i) Subject to Subsection ~~[(24)]~~ (23)(a)(ii), a private club licensed to sell  
2588 liquor may sell beer for on-premise consumption:

2589 (A) in an open container; and

2590 (B) on draft.

2591 (ii) Beer sold pursuant to Subsection ~~[(24)]~~ (23)(a)(i) shall be in a size of container that  
2592 does not exceed two liters, except that beer may not be sold to an individual patron in a size of  
2593 container that exceeds one liter.

2594 (b) (i) A private club licensed under this chapter that sells beer pursuant to Subsection  
2595 ~~[(24)]~~ (23)(a):

2596 (A) may do so without obtaining a separate on-premise beer retailer license from the  
2597 commission; and

2598 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
2599 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are  
2600 inconsistent with or less restrictive than the operational restrictions under this chapter.

2601 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
2602 Licenses, required by Subsection ~~[(24)]~~ (23)(b)(i) may result in a suspension or revocation of  
2603 the private club's:

2604 (A) state liquor license; and

2605 (B) alcoholic beverage license issued by the local authority.

2606           ~~[(25)]~~ (24) Alcoholic beverages may not be stored, served, or sold in any place other  
2607 than as designated in the licensee's application, unless the licensee first applies for and receives  
2608 approval from the department for a change of location within the private club.

2609           ~~[(26)]~~ (25) (a) A patron may only make alcoholic beverage purchases in the private club  
2610 from and be served by a person employed, designated, and trained by the licensee to sell,  
2611 dispense, and serve alcoholic beverages.

2612           (b) Notwithstanding Subsection ~~[(26)]~~ (25)(a), a patron who has purchased bottled  
2613 wine from an employee of the private club or has carried bottled wine onto the premises of the  
2614 private club pursuant to Subsection ~~[(32)]~~ (31) may thereafter serve wine from the bottle to the  
2615 patron or others at the patron's table.

2616           (c) Each club patron may have no more than two alcoholic beverages of any kind at a  
2617 time before the patron.

2618           ~~[(27)]~~ (26) The liquor storage area shall remain locked at all times other than those  
2619 hours and days when liquor sales and service are authorized by law.

2620           ~~[(28)]~~ (27) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished  
2621 at a private club during the following days or hours:

2622           (i) until after the polls are closed on the day of any:

2623           (A) regular general election;

2624           (B) regular primary election; or

2625           (C) statewide special election;

2626           (ii) until after the polls are closed on the day of any municipal, special district, or school  
2627 election, but only:

2628           (A) within the boundaries of the municipality, special district, or school district; and

2629           (B) if required by local ordinance; and

2630           (iii) on any other day after 1 a.m. and before 10 a.m.

2631           (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
2632 Licenses, for on-premise beer licenses.

2633           (c) (i) Notwithstanding Subsections ~~[(28)]~~ (27)(a) and (b), a private club shall remain

2634 open for one hour after the private club ceases the sale and service of alcoholic beverages  
2635 during which time a patron of the club may finish consuming:

- 2636 (A) any single drink containing spirituous liquor;
- 2637 (B) a single serving of wine not exceeding five ounces;
- 2638 (C) a single serving of heavy beer; or
- 2639 (D) a single serving of beer not exceeding 26 ounces.

2640 (ii) A club is not required to remain open:

- 2641 (A) after all patrons have vacated the premises; or
- 2642 (B) during an emergency.

2643 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club may not allow a  
2644 patron to remain on the premises to consume alcoholic beverages on the premises.

2645 ~~[(29)]~~ (28) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

- 2646 (a) minor;
- 2647 (b) person actually, apparently, or obviously intoxicated;
- 2648 (c) known habitual drunkard; or
- 2649 (d) known interdicted person.

2650 ~~[(30)]~~ (29) (a) (i) Liquor may be sold only at prices fixed by the commission.

2651 (ii) Liquor may not be sold at discount prices on any date or at any time.

2652 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage  
2653 to the licensee.

2654 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
2655 over consumption or intoxication.

2656 (d) The price of a single serving of a primary spirituous liquor shall be the same whether  
2657 served as a single drink or in conjunction with another alcoholic beverage.

2658 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain  
2659 hours of the private club's business day such as a "happy hour."

2660 (f) The sale or service of more than one alcoholic beverage for the price of a single  
2661 alcoholic beverage is prohibited.

2662 (g) The sale or service of an indefinite or unlimited number of alcoholic beverages  
2663 during any set period for a fixed price is prohibited.

2664 (h) A private club licensee may not engage in a promotion involving or offering free  
2665 alcoholic beverages to patrons of the club.

2666 [~~(31)~~] (30) Alcoholic beverages may not be purchased for a patron of the private club  
2667 by:

2668 (a) the licensee; or

2669 (b) any employee or agent of the licensee.

2670 [~~(32)~~] (31) (a) A person may not bring onto the premises of a private club licensee any  
2671 alcoholic beverage for on-premise consumption, except a person may bring, subject to the  
2672 discretion of the licensee, bottled wine onto the premises of any private club licensee for  
2673 on-premise consumption.

2674 (b) Except bottled wine under Subsection [~~(32)~~] (31)(a), a private club or its officers,  
2675 managers, employees, or agents may not allow:

2676 (i) a person to bring onto the private club premises any alcoholic beverage for  
2677 consumption on the private club premises; or

2678 (ii) consumption of alcoholic beverages described in Subsection [~~(32)~~] (31)(b)(i) on the  
2679 premises of the private club.

2680 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
2681 or other representative of the licensee upon entering the private club.

2682 (d) A wine service may be performed and a service charge assessed by the private club  
2683 as authorized by commission rule for wine carried in by a patron.

2684 [~~(33)~~] (32) (a) Except as provided in Subsection [~~(33)~~] (32)(b), a private club and its  
2685 employees may not permit a patron of the club to carry from the club premises an open  
2686 container that:

2687 (i) is used primarily for drinking purposes; and

2688 (ii) contains any alcoholic beverage.

2689 (b) A patron may remove the unconsumed contents of a bottle of wine if before



2690 removal the bottle has been recorked or recapped.

2691           ~~[(34)]~~ (33) (a) A minor may not be employed by any class A, B, or C private club to  
2692 sell, dispense, or handle any alcoholic beverage.

2693           (b) Notwithstanding Subsection ~~[(34)]~~ (33)(a), a minor who is at least 16 years of age  
2694 may be employed by a class A or C private club to enter the sale at a cash register or other sales  
2695 recording device.

2696           (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed  
2697 by or be on the premises of any class D private club.

2698           (d) A minor may not be employed to work in any lounge or bar area of any class A, B,  
2699 or C private club.

2700           ~~[(35)]~~ (34) An employee of a private club, while on duty, may not:

2701           (a) consume an alcoholic beverage; or

2702           (b) be intoxicated.

2703           ~~[(36)]~~ (35) (a) A private club may not charge for the service or supply of glasses, ice, or  
2704 mixers unless:

2705           (i) the charges are fixed in the house rules of the club; and

2706           (ii) a copy of the house rules is kept on the club premises and available at all times for  
2707 examination by patrons of the club.

2708           (b) A charge or fee made in connection with the sale, service, or consumption of liquor  
2709 may be stated in food or alcoholic beverage menus including:

2710           (i) a set-up charge;

2711           (ii) a service charge; or

2712           (iii) a chilling fee.

2713           ~~[(37)]~~ (36) Each private club licensee shall display in a prominent place in the private  
2714 club:

2715           (a) the private club license that is issued by the department;

2716           (b) a list of the types and brand names of liquor being served through its calibrated  
2717 metered dispensing system; and

(c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

~~[(38) The following acts or conduct in a private club licensed under this chapter are considered contrary to the public welfare and morals, and are prohibited upon the premises:]~~

~~[(a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;]~~

~~[(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (38)(a);]~~

~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;]~~

~~[(d) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Subsection (38);]~~

~~[(f) permitting any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus; or]~~

~~[(g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting;]~~

~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;]~~

~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this Subsection (38); or]~~

~~[(iv) scenes wherein a person displays the vulva or the anus or the genitals.]~~

2746           ~~[(39) Nothing in Subsection (38) precludes a local authority from being more restrictive~~  
2747 ~~of acts or conduct of the type prohibited in Subsection (38).]~~

2748           ~~[(40) (a) Although live entertainment is permitted on the premises of a club liquor~~  
2749 ~~licensee, a licensee may not allow any person to perform or simulate sexual acts prohibited by~~  
2750 ~~Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation,~~  
2751 ~~flagellation, or the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or~~  
2752 ~~the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a~~  
2753 ~~stage or at a designated area approved by the commission.]~~

2754           ~~[(b) Nothing in Subsection (40)(a) precludes a local authority from being more~~  
2755 ~~restrictive of acts or conduct of the type prohibited in Subsection (40)(a).]~~

2756           ~~[(41)]~~ (37) A private club may not engage in or permit any form of gambling, or have  
2757 any video gaming device, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling,  
2758 on the premises of the private club.

2759           ~~[(42)]~~ (38) (a) A private club may not close or cease operation for a period longer than  
2760 240 hours, unless:

2761           (i) the private club licensee notifies the department in writing at least seven days before  
2762 the closing; and

2763           (ii) the closure or cessation of operation is first approved by the department.

2764           (b) Notwithstanding Subsection ~~[(42)]~~ (38)(a), in the case of emergency closure,  
2765 immediate notice of closure shall be made to the department by telephone.

2766           (c) The department may authorize a closure or cessation of operation for a period not  
2767 to exceed 60 days. The department may extend the initial period an additional 30 days upon  
2768 written request of the private club and upon a showing of good cause. A closure or cessation of  
2769 operation may not exceed a total of 90 days without commission approval.

2770           (d) The notice required by Subsection ~~[(42)]~~ (38)(a) shall include:

2771           (i) the dates of closure or cessation of operation;

2772           (ii) the reason for the closure or cessation of operation; and

2773           (iii) the date on which the licensee will reopen or resume operation.

2774 (e) Failure of the licensee to provide notice and to obtain department authorization  
2775 prior to closure or cessation of operation shall result in an automatic forfeiture of:  
2776 (i) the license; and  
2777 (ii) the unused portion of the license fee for the remainder of the license year effective  
2778 immediately.

2779 (f) Failure of the licensee to reopen or resume operation by the approved date shall  
2780 result in an automatic forfeiture of:

2781 (i) the license; and  
2782 (ii) the unused portion of the club's license fee for the remainder of the license year.

2783 ~~[(43)]~~ (39) A private club license may not be transferred from one location to another,  
2784 without prior written approval of the commission.

2785 ~~[(44)]~~ (40) (a) A private club licensee, may not sell, transfer, assign, exchange, barter,  
2786 give, or attempt in any way to dispose of the license to any other person, whether for monetary  
2787 gain or not.

2788 (b) A private club license has no monetary value for the purpose of any type of  
2789 disposition.

2790 Section 24. Section **32A-6-301** is amended to read:

2791 **32A-6-301. Application requirements.**

2792 (1) Each application for an industrial or manufacturing use permit shall, in addition to  
2793 the requirements of Section 32A-6-102, include:

2794 (a) a nonrefundable \$50 application fee;  
2795 (b) a \$200 one-time special use permit fee;  
2796 (c) a cash or corporate surety bond in the penal sum of \$1,000 payable to the  
2797 department, which the permittee has procured and must maintain for so long as the permittee  
2798 continues to operate as a special use permittee;  
2799 (d) written consent of the local authority; and  
2800 (e) a floor plan of the immediate area within the premises in which the applicant  
2801 proposes that alcoholic products be stored, used, mixed, sold, or consumed.

2802 (2) (a) The bond required under Subsection (1) shall be:  
2803 (i) in a form approved by the attorney general; and  
2804 (ii) conditioned upon the permittee's faithful compliance with this title and the rules of  
2805 the commission.

2806 (b) If the surety bond is cancelled due to the permittee's negligence, a \$300  
2807 reinstatement fee may be assessed.

2808 (c) No part of any cash or corporate bond [so] posted under this section may be  
2809 withdrawn during the period the permit is in effect.

2810 (d) A bond filed by a permittee may be forfeited if the permit is finally revoked.

2811 (3) Any person desiring a special use permit to produce gasohol or any alcoholic  
2812 product shall provide evidence to the department that an approved Notice of Registration of  
2813 Distilled Spirits Plant and the appropriate permit from the Federal Alcohol and Tobacco Tax  
2814 and Trade Bureau [~~of Alcohol, Tobacco and Firearms~~] has been obtained by the person.

2815 Section 25. Section **32A-6-302** is amended to read:

2816 **32A-6-302. Operational restrictions.**

2817 [~~A permittee may not denature alcohol for the purpose of experimentation, testing, or~~  
2818 ~~fuel use, except and unless done~~] In addition to the restrictions, conditions, and requirements of  
2819 Section 32A-6-105, each industrial or manufacturing use permit is subject to the following  
2820 operating restrictions:

2821 (1) An industrial or manufacturer permittee may produce for lawful use and sale the  
2822 following:

2823 (a) vinegar;

2824 (b) preserved nonintoxicating cider;

2825 (c) food preparations;

2826 (d) a United States Pharmacopoeia or national formulary preparation in conformity with  
2827 Title 58, Chapters 17b, 37, 37a, 37b, and 37c, if the preparation:

2828 (i) conforms to standards established by:

2829 (A) the Department of Agriculture and Food; and

2830           (B) the Department of Health; and  
2831           (ii) contains no more alcohol than is necessary to preserve or extract the medicinal,  
2832 flavoring, or perfumed properties of the treated substances; and  
2833           (e) wood and denatured alcohol if manufactured in compliance with the formulas and  
2834 regulations under Title 27, Code of Federal Regulations, [~~Sections 212.10 through 212.38~~]  
2835 Parts 19, 20, and 21.

2836           (2) (a) An industrial or manufacturer permittee that produces patent or proprietary  
2837 medicines containing alcohol may sell the medicines in the original and unbroken package if the  
2838 medicine contains sufficient medication to prevent its use as an alcoholic beverage.

2839           (b) An industrial or manufacturer permittee described in this Subsection (2) shall, upon  
2840 request by the department, provide a sufficient sample of the medicine to enable the department  
2841 to have the medicine analyzed for purposes of this section.

2842           Section 26. Section **32A-7-106** is amended to read:

2843           **32A-7-106. Operational restrictions.**

2844           (1) (a) Any organization granted a single event permit and any person involved in the  
2845 storage, sale, or service of alcoholic beverages at the event for which the permit is issued, shall  
2846 abide by:

2847           (i) this title;

2848           (ii) the rules of the commission; and

2849           (iii) the special conditions and requirements provided in this section.

2850           (b) Failure to comply with Subsection (1)(a):

2851           (i) may result in:

2852           (A) an immediate revocation of the permit;

2853           (B) forfeiture of the surety bond; and

2854           (C) immediate seizure of all alcoholic beverages present at the event; and

2855           (ii) disqualifies the organization from applying for a single event permit under this  
2856 chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special  
2857 Event Beer Permits, for a period of three years from the date of revocation of the permit.

2858 (c) Any alcoholic beverages seized under this Subsection (1) shall be returned to the  
2859 organization after the event if forfeiture proceedings are not instituted under Section  
2860 32A-13-103.

2861 (2) Special conditions and requirements for single event permittees include the  
2862 following:

2863 (a) (i) All persons involved in the storage, sale, or service of alcoholic beverages at the  
2864 event do so under the supervision and direction of the permittee.

2865 (ii) All persons involved in the sale or service of alcoholic beverages at the event may  
2866 not, while on duty:

2867 (A) consume an alcoholic beverage; or

2868 (B) be intoxicated.

2869 (b) (i) All liquor stored, sold, served, and consumed at the event shall be purchased by  
2870 the permittee from a state store or package agency.

2871 (ii) All beer purchased by the permittee shall be purchased from:

2872 (A) a licensed beer wholesaler; or

2873 (B) a licensed beer retailer.

2874 (iii) All alcoholic beverages are considered under the control of the permittee during the  
2875 event.

2876 (iv) Attendees of the event may not bring any alcoholic beverages onto the premises of  
2877 the event.

2878 (c) A permittee may not charge more than the maximum amount set forth in the permit  
2879 for any alcoholic beverage.

2880 (d) Each permittee shall post in a prominent place in the area in which alcoholic  
2881 beverages are being sold, served, and consumed, a copy of the permit, together with a list of the  
2882 operational restrictions and requirements of single event permittees set forth in this section.

2883 (e) Alcoholic beverages purchased for the event may not be stored, sold, served, or  
2884 consumed in any location other than that described in the application and designated on the  
2885 permit unless the permittee first applies for and receives approval from the commission for a

2886 change of location.

2887 (f) (i) A single event permittee may sell or provide a primary spirituous liquor only in a  
2888 quantity not to exceed one ounce per beverage except that additional spirituous liquor may be  
2889 used in a beverage if:

2890 (A) used as a secondary flavoring ingredient;

2891 (B) used in conjunction with the primary spirituous liquor;

2892 (C) the secondary ingredient is not the only spirituous liquor in the beverage; and

2893 (D) each attendee may have no more than 2.75 ounces of spirituous liquor at a time  
2894 before the attendee.

2895 (ii) Spirituous liquor need not be dispensed through a calibrated metered dispensing  
2896 system.

2897 (g) (i) (A) Wine may be sold and served by the glass or an individual portion that does  
2898 not exceed five ounces per glass or individual portion.

2899 (B) An individual portion may be served to an attendee in more than one glass as long  
2900 as the total amount of wine does not exceed five ounces.

2901 (C) An individual portion of wine is considered to be one alcoholic beverage under  
2902 Subsection (2)(p).

2903 (ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed by  
2904 the commission.

2905 (iii) A wine service may be performed and a service charge assessed by the single event  
2906 permittee as authorized by commission rule for wine purchased at the event.

2907 (h) (i) Heavy beer may be served in original containers not exceeding one liter at prices  
2908 fixed by the commission.

2909 (ii) A service charge may be assessed by the single event permittee as authorized by  
2910 commission rule for heavy beer purchased at the event.

2911 (i) (i) Subject to Subsection (2)(i)(ii), beer may be sold for on-premise consumption:

2912 (A) in an open container; and

2913 (B) on draft.



2914           (ii) Beer sold pursuant to Subsection (2)(i)(i) shall be in a size of container that does  
2915 not exceed two liters, except that beer may not be sold to an individual attendee in a size of  
2916 container that exceeds one liter.

2917           (j) (i) Alcoholic beverages may not be sold, served, or consumed between the hours of  
2918 1 a.m. and 10 a.m.

2919           (ii) This Subsection (2)(j) does not preclude a local authority from being more  
2920 restrictive with respect to the hours of sale, service, or consumption of alcoholic beverages at a  
2921 temporary single event.

2922           (k) Alcoholic beverages may not be sold, served, or otherwise furnished until after the  
2923 polls are closed on the day of any:

- 2924           (i) regular general election;
- 2925           (ii) regular primary election; or
- 2926           (iii) statewide special election.

2927           (l) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

- 2928           (i) minor;
- 2929           (ii) person actually, apparently, or obviously intoxicated;
- 2930           (iii) known habitual drunkard; or
- 2931           (iv) known interdicted person.

2932           (m) (i) (A) Liquor may be sold only at prices fixed by the commission.

2933           (B) Liquor may not be sold at discount prices on any date or at any time.

2934           (ii) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage  
2935 to the permittee.

2936           (iii) An alcoholic beverage may not be sold at a price that encourages over consumption  
2937 or intoxication.

2938           (iv) An alcoholic beverage may not be sold at a special or reduced price for only certain  
2939 hours of the day of the permitted event.

2940           (v) The sale or service of more than one alcoholic beverage for the price of a single  
2941 alcoholic beverage is prohibited.

(vi) The permittee may not engage in a public promotion involving or offering free alcoholic beverages to the general public.

(n) A single event permittee and its employees may not permit an attendee to carry from the premises an open container that:

(i) is used primarily for drinking purposes; and

(ii) contains any alcoholic beverage.

(o) A minor may not sell, serve, dispense, or handle any alcoholic beverage at the event.

(p) Each attendee may have no more than one alcoholic beverage of any kind at a time before the patron.

~~[(3) The following acts or conduct at an event for which a permit is issued under this chapter are considered contrary to the public welfare and morals, and are prohibited upon the premises:]~~

~~[(a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;]~~

~~[(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);]~~

~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;]~~

~~[(d) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Subsection (3);]~~

~~[(f) permitting any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus;]~~

~~[(g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:]~~

2970           ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral~~  
2971 ~~copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

2972           ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or~~  
2973 ~~genitals;]~~

2974           ~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or~~  
2975 ~~drawings are used to portray, any of the prohibited activities described in this Subsection (3);~~  
2976 ~~or]~~

2977           ~~[(iv) scenes wherein a person displays the vulva or the anus or the genitals.]~~

2978           ~~[(4) Nothing in Subsection (3) precludes a local authority from being more restrictive of~~  
2979 ~~acts or conduct of the type prohibited in Subsection (3).]~~

2980           ~~[(5) (a) Although live entertainment is permitted at the event for which a permit has~~  
2981 ~~been issued under this chapter, a permittee may not allow any person to perform or simulate~~  
2982 ~~sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy,~~  
2983 ~~bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast,~~  
2984 ~~buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.~~  
2985 ~~Entertainers shall perform only upon a stage or at a designated area approved by the~~  
2986 ~~commission.]~~

2987           ~~[(b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive~~  
2988 ~~of acts or conduct of the type prohibited in Subsection (5)(a).]~~

2989           ~~[(6)]~~ (3) The permittee shall maintain an expense and revenue ledger or record showing:

2990           (a) expenditures made for liquor and beer, set-ups, and other ingredients and  
2991 components of alcoholic beverages; and

2992           (b) the revenue from sale of alcoholic beverages.

2993           ~~[(7)]~~ (4) A single event permit may not be transferred.

2994           ~~[(8)]~~ (5) A single event permittee may not engage in or allow any form of gambling, or  
2995 have any video gaming device as defined and proscribed by Title 76, Chapter 10, Part 11,  
2996 Gambling, on the premises serviced by the single event permittee.

2997           Section 27. Section **32A-8-102** is amended to read:

2998           **32A-8-102. Application and renewal requirements.**

2999           (1) Each person seeking an alcoholic beverage manufacturing license of any kind under  
3000 this chapter shall file a written application with the department, in a form prescribed by the  
3001 department. The application shall be accompanied by:

3002           (a) a nonrefundable application fee of \$250;

3003           (b) an initial license fee of \$3,250 unless otherwise provided in this chapter, which is  
3004 refundable if a license is not granted;

3005           (c) a statement of the purpose for which the applicant has applied for the alcoholic  
3006 beverage manufacturing license;

3007           (d) written consent of the local authority;

3008           (e) a bond as specified by Section 32A-8-105;

3009           (f) evidence that the applicant is carrying public liability insurance in an amount and  
3010 form satisfactory to the department;

3011           (g) evidence that the applicant is authorized by the United States to manufacture  
3012 alcoholic beverages;

3013           (h) a signed consent form stating that the licensee will permit any authorized  
3014 representative of the commission, department, or any law enforcement officer to have  
3015 unrestricted right to enter the premises;

3016           (i) in the case of an applicant that is a partnership, corporation, or limited liability  
3017 company, proper verification evidencing that the person or persons signing the application are  
3018 authorized to so act on behalf of the partnership, corporation, or limited liability company; and

3019           (j) any other documents and evidence the department may require by rule or policy to  
3020 allow complete evaluation of the application.

3021           (2) (a) All alcoholic beverage manufacturing licenses expire on December 31 of each  
3022 year.

3023           (b) Persons desiring to renew their license shall submit by no later than November 30 of  
3024 the year the license expires:

3025           (i) a completed renewal application to the department; and

3026 (ii) a renewal fee in the following amount:

3027 (A) \$2,500, except for an alcoholic beverage manufacturing license described in  
3028 Subsection (2)(b)(ii)(B); or

3029 (B) \$1,200 for a winery license if the winery licensee produced less than 20,000 gallons  
3030 of wine in the calendar year preceding the year in which the licensee seeks renewal.

3031 (c) Failure to meet the renewal requirements results in an automatic forfeiture of the  
3032 license effective on the date the existing license expires. Renewal applications shall be in a form  
3033 prescribed by the department.

3034 (3) To ensure compliance with Subsection 32A-8-106~~[(1)(f)]~~ (6), the commission may  
3035 suspend or revoke an alcoholic beverage manufacturing license if the manufacturing licensee  
3036 does not immediately notify the department of any change in:

3037 (a) ownership of the licensee;

3038 (b) for a corporate owner, the:

3039 (i) corporate officers or directors; or

3040 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
3041 corporation; or

3042 (c) for a limited liability company:

3043 (i) managers; or

3044 (ii) members owning at least 20% of the limited liability company.

3045 Section 28. Section **32A-8-106** is amended to read:

3046 **32A-8-106. Operational restrictions.**

3047 ~~[(1)]~~ Each person granted an alcoholic beverage manufacturing license and the  
3048 employees and management of the licensee shall abide by the following conditions and  
3049 requirements, and any special conditions and restrictions otherwise provided in this chapter.  
3050 Failure to comply may result in a suspension or revocation of the license or other disciplinary  
3051 action taken against individual employees or management personnel~~[:]~~.

3052 ~~[(a)]~~ (1) A licensee may not sell any liquor within the state except to the department  
3053 and to military installations.

3054           ~~[(b)]~~ (2) Each license issued under this chapter shall be conspicuously displayed on the  
3055 licensed premises.

3056           ~~[(c)]~~ (3) A licensee may not advertise its product in violation of this title or any other  
3057 federal or state law, except that nothing in this title prohibits the advertising or solicitation of  
3058 orders for industrial alcohol from holders of special permits.

3059           ~~[(d)]~~ (4) (a) Each alcoholic beverage manufacturing licensee shall maintain accounting  
3060 and other records and documents as the department may require. ~~[Any]~~

3061           (b) A manufacturing licensee or person acting for the manufacturing licensee, who  
3062 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of  
3063 the books of account or other documents of the licensee required to be made, maintained, or  
3064 preserved by this title or the rules of the commission for the purpose of deceiving the  
3065 commission, or the department, or any of their officials or employees, is subject to:

3066           (i) the immediate suspension or revocation of the manufacturing license; and

3067           (ii) criminal prosecution under Chapter 12, Criminal Offenses.

3068           ~~[(e)]~~ (5) An alcoholic beverage manufacturing license may not be transferred from one  
3069 location to another, without prior written approval of the commission.

3070           ~~[(f)]~~ (i) (6) (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter,  
3071 give, or attempt in any way to dispose of the license to any other person or entity, whether for  
3072 monetary gain or not.

3073           ~~[(i)]~~ (b) A manufacturing license has no monetary value for the purpose of any type of  
3074 disposition.

3075           ~~[(g)]~~ (7) Each licensee shall from time to time, on request of the department, furnish for  
3076 analytical purposes samples of the alcoholic products that it has for sale or that it has in the  
3077 course of manufacture for sale in this state.

3078           ~~[(2)]~~ Nothing in this chapter prevents any manufacturer of, or dealer in, patent or  
3079 proprietary medicines containing alcohol from selling the medicines in the original and unbroken  
3080 package if the medicine contains sufficient medication to prevent its use as an alcoholic  
3081 beverage. Each manufacturer or dealer who keeps patent or proprietary medicines for sale

shall, upon request by the department, provide a sufficient sample of the medicine to enable the department to have the medicine analyzed.]

~~[(3) (a) Nothing in this chapter prevents any person from manufacturing vinegar or preserved nonintoxicating cider for use or sale, or the manufacture or sale for lawful purposes of any food preparation, or any United States Pharmacopoeia or national formulary preparation in conformity with the Utah pharmacy laws, if the preparation conforms to standards established by the state departments of agriculture and health, and contains no more alcohol than is absolutely necessary to preserve or extract the medicinal, flavoring, or perfumed properties of the treated substances.]~~

~~[(b) Nothing in this chapter prevents the manufacture or sale of wood or denatured alcohol under rules established by the department and in compliance with the formulas and rules established by the United States.]~~

Section 29. Section **32A-8-505** is amended to read:

**32A-8-505. Operational restrictions.**

(1) (a) A local industry representative licensee, employee or agent of the licensee, or employee or agent of a manufacturer, supplier, or importer who is conducting business in the state, shall abide by the conditions and requirements set forth in this section.

(b) If any person listed in Subsection (1)(a) knowingly violates or fails to comply with the conditions and requirements set forth in this section:

(i) such violation or failure to comply may result in:

(A) a suspension or revocation of the license; or

(B) other disciplinary action taken against individual employees or agents of the licensee; and

(ii) the commission may order the removal of the manufacturer's, supplier's, or importer's products from the department's sales list and a suspension of the department's purchase of those products for a period determined by the commission if the manufacturer, supplier, or importer:

(A) directly committed the violation; or

3110 (B) solicited, requested, commanded, encouraged, or intentionally aided another to  
3111 engage in the violation.

3112 (2) A local industry representative licensee, employee or agent of the licensee, or  
3113 employee or agent of a manufacturer, supplier, or importer who is conducting business in the  
3114 state:

3115 (a) only to the extent authorized by Chapter 12, Criminal Offenses, may:

3116 (i) assist the department in:

3117 (A) ordering, shipping, and delivering merchandise;

3118 (B) providing new product notification;

3119 (C) obtaining listing and delisting information;

3120 (D) receiving price quotations;

3121 (E) providing product sales analysis;

3122 (F) conducting shelf management; and

3123 (G) conducting educational seminars; and

3124 (ii) for the purpose of acquiring new listings:

3125 (A) solicit orders from the department; and

3126 (B) submit to the department price lists and samples of the products of the  
3127 manufacturer, supplier, or importer;

3128 (b) may not sell any liquor, wine, or heavy beer within the state except to the  
3129 department and military installations;

3130 (c) may not ship or transport, or cause to be shipped or transported, into this state or  
3131 from one place to another within this state any liquor, wine, or heavy beer;

3132 (d) may not sell or furnish any liquor, wine, or heavy beer to any person within this  
3133 state other than to the department and military installations;

3134 (e) except as otherwise provided, may not advertise products it represents in violation  
3135 of this title or any other federal or state law;

3136 (f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and

3137 (g) may only provide samples of products of the manufacturer, supplier, or importer for



3138     tasting and sampling purposes as provided in Section 32A-12-603 by the department.

3139             (3) (a) A local industry representative licensee shall maintain on file with the department  
3140     a current accounts list of the names and addresses of all manufacturers, suppliers, and importers  
3141     the licensee represents.

3142             (b) The licensee shall notify the department in writing of any changes to the accounts  
3143     listed within 14 days from the date the licensee either acquired or lost the account of a particular  
3144     manufacturer, supplier, or importer.

3145             (4) A local industry representative licensee shall maintain accounting and other records  
3146     and documents as the department may require for at least three years.

3147             (5) Any local industry representative licensee or person acting for the licensee, who  
3148     knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of  
3149     the books of account or other documents of the licensee required to be made, maintained, or  
3150     preserved by this title or the rules of the commission for the purpose of deceiving the  
3151     commission or the department, or any of their officials or employees, is subject to:

3152                 (a) the immediate suspension or revocation of the industry representative's license; and

3153                 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

3154             (6) A local industry representative licensee may, for the purpose of becoming educated  
3155     as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee  
3156     represents, taste and analyze industry representative samples under the conditions listed in this  
3157     Subsection (6).

3158             (a) The licensee may not receive more than two industry representative samples of a  
3159     particular type, vintage, and production lot of a particular branded product within a consecutive  
3160     120-day period.

3161                 (b) (i) Each sample of liquor may not exceed 1 liter.

3162                 (ii) Each sample of wine or heavy beer may not exceed 1.5 liters unless that exact  
3163     product is only commercially packaged in a larger size, not to exceed 5 liters.

3164             (c) Each industry representative sample may only be of a product not presently listed on  
3165     the department's sales list.

- 3166 (d) (i) Industry representative samples shall be shipped:  
3167 (A) prepaid by the manufacturer, supplier, or importer;  
3168 (B) by common carrier and not via United States mail; and  
3169 (C) directly to the department's central administrative warehouse office.
- 3170 (ii) These samples may not be shipped to any other location within the state.
- 3171 (e) Industry representative samples shall be accompanied by a letter from the  
3172 manufacturer, supplier, or importer:
- 3173 (i) clearly identifying the product as an "industry representative sample"; and  
3174 (ii) clearly stating:  
3175 (A) the FOB case price of the product; and  
3176 (B) the name of the local industry representative for who it is intended.
- 3177 (f) The department shall assess a reasonable handling, labeling, and storage fee for each  
3178 industry representative sample received.
- 3179 (g) The department shall affix to each bottle or container a label clearly identifying the  
3180 product as an "industry representative sample".
- 3181 (h) The department shall:  
3182 (i) account for and record each industry representative sample received;  
3183 (ii) account for the sample's disposition; and  
3184 (iii) maintain a record of the sample and its disposition for a two-year period.
- 3185 (i) Industry representative samples may not leave the premises of the department's  
3186 central administrative warehouse office.
- 3187 (j) Licensed industry representatives and their employees and agents may, at regularly  
3188 scheduled days and times established by the department, taste and analyze industry  
3189 representative samples on the premises of the department's central administrative warehouse  
3190 office.
- 3191 (k) Any unused contents of an opened product remaining after the product has been  
3192 sampled shall be destroyed by the department under controlled and audited conditions  
3193 established by the department.

3194 (l) Industry representative samples that are not tasted within 30 days of receipt by the  
3195 department shall be disposed of at the discretion of the department in one of the following ways:

3196 (i) contents destroyed under controlled and audited conditions established by the  
3197 department; or

3198 (ii) added to the inventory of the department for sale to the public.

3199 (7) An employee or agent of a local industry representative licensee may not be:

3200 (a) the holder of any retail license issued under this title that sells spirituous liquor,  
3201 wine, or heavy beer; ~~[or]~~

3202 (b) an employee or agent of any retail licensee issued under this title that sells spirituous  
3203 liquor, wine, or heavy beer~~[-]; or~~

3204 (c) a minor.

3205 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,  
3206 give, or attempt in any way to dispose of the license to any other person, whether for monetary  
3207 gain or not.

3208 (b) A local industry representative license has no monetary value for the purpose of any  
3209 type of disposition.

3210 Section 30. Section **32A-10-101** is amended to read:

3211 **32A-10-101. State and local licensing -- Limitations.**

3212 (1) Any local authority may:

3213 (a) tax or prohibit any retail sale of beer;

3214 (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise consumption;

3215 (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise  
3216 consumption at temporary special events that do not last longer than 30 days;

3217 (d) issue, suspend, and revoke licenses to ~~[general food stores and other establishments]~~  
3218 businesses to sell beer at retail for off-premise consumption;

3219 (e) establish proximity restrictions for establishing premises where beer is sold at retail  
3220 for off-premise consumption in relation to any public or private school, church, public library,  
3221 public playground, or park; and

(f) otherwise regulate the retail sale of beer for off-premise consumption subject to the requirements of Sections 32A-10-102 and 32A-10-103.

(2) The commission shall issue licenses to sell beer at retail for on-premise consumption as provided in Part 2, On-Premise Beer Retailer Licenses.

(3) Each licensee issued a license for on-premise consumption, by the commission under Subsection (2) or by the local authority under Subsection (1), is subject to the operational restrictions provided in Section 32A-10-206, except as otherwise provided.

(4) Suspension or revocation of an on-premise beer retailer license issued by the commission under Subsection (2) or an on-premise beer retailer license issued by a local authority under Subsection (1) prohibits the establishment whose license is suspended or revoked from continuing to operate under the other state or local license it may have.

(5) The commission shall issue temporary permits to sell beer at retail for on-premise consumption at temporary special events that do not last longer than 30 days as provided in Part 3, Temporary Special Event Beer Permits.

(6) Each permittee issued a temporary permit by the commission under Subsection (5) or by the local authority under Subsection (1), is subject to the operational restrictions provided in Section 32A-10-306, except as otherwise provided.

(7) Suspension or revocation of a temporary permit issued by the commission under Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose permit is suspended or revoked from continuing to operate under the other state or local permit the permittee may have.

Section 31. Section **32A-10-102** is amended to read:

**32A-10-102. General restrictions.**

(1) (a) (i) A beer retailer licensed under this part or Part 2, On-Premise Beer Retailer Licenses, may not purchase, acquire, possess for the purpose of resale, or sell any beer except that which has been lawfully purchased from a wholesaler licensed under this title or from a small brewer that manufactured the beer.

(ii) Violation of Subsection (1)(a) is a class A misdemeanor.

3250 (b) (i) All purchases made of beer by any beer retailer from a licensed wholesaler shall  
3251 be from that wholesaler who is authorized by the commission to sell beer in the geographical  
3252 area in which the beer retailer is located, unless an alternate wholesaler is authorized by the  
3253 department to sell to the beer retailer as provided in Section 32A-11-106.

3254 (ii) Violation of Subsection (1)(b) is a class B misdemeanor.

3255 (2) (a) Beer may not be sold, provided, or possessed for off-premise consumption in  
3256 containers larger than two liters.

3257 (b) For a special event that does not last longer than 30 days:

3258 (i) an on-premise beer retailer license issued by the commission as provided in this part  
3259 is not required for the sale of beer at the special event; and

3260 (ii) a temporary beer permit must be obtained from the commission as provided in Part  
3261 3, Temporary Special Event Beer Permits.

3262 (3) (a) A minor may not be granted a beer retailer license.

3263 (b) The commission may not grant a beer retailer license to an applicant that is a  
3264 partnership, corporation, or limited liability company if any of the following is a minor:

3265 (i) a partner or managing agent of the applicant partnership;

3266 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
3267 total issued and outstanding stock of the applicant corporation; or

3268 (iii) a manager or member who owns at least 20% of the applicant limited liability  
3269 company.

3270 (4) A minor may not sell beer on the premises of a beer retailer for off-premise  
3271 consumption [~~except~~] unless:

3272 (a) the sale is done under the supervision of a person 21 years of age or older who is on  
3273 the premises; and

3274 (b) the minor is at least 16 years of age.

3275 (5) (a) If malt beverage coolers or malt liquor is sold by a beer retailer for off-premise  
3276 consumption, the beer retailer shall display a sign at the location on the premises where malt  
3277 beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please read the

3278 label."

3279 (b) A violation of this Subsection (5) is an infraction.

3280 Section 32. Section **32A-10-103** is amended to read:

3281 **32A-10-103. Alcohol training and education for off-premise consumption --**

3282 **Requirements on off-premise beer retailer licensees -- Penalties related to sales to minors**

3283 **-- Hearings -- Tracking.**

3284 (1) (a) A local authority that issues an off-premise beer retailer license to a [~~general~~  
3285 ~~food store or similar~~] business to sell beer at retail for off-premise consumption shall require the  
3286 following to have a valid certificate that the individual completed an alcohol training and  
3287 education seminar required by Section 62A-15-401 in the time frames required by Subsection  
3288 (1)(b), any individual who:

3289 (i) directly supervises the sale of beer to a customer for consumption off the premises of  
3290 the off-premise beer retailer licensee; or

3291 (ii) sells beer to a customer for consumption off the premises of the off-premise beer  
3292 retailer licensee.

3293 (b) (i) An individual shall complete an alcohol training and education seminar required  
3294 by Section 62A-15-401 within 30 days of the day on which the individual is employed by an  
3295 off-premise beer retailer licensee if the individual:

3296 (A) is employed on or after September 1, 2006; and

3297 (B) on the date of employment, does not have a valid certificate that the individual has  
3298 completed an alcohol training and education seminar for purposes of this section.

3299 (ii) An individual shall complete an alcohol training and education seminar by not later  
3300 than October 1, 2006 if the individual:

3301 (A) is employed before September 1, 2006; and

3302 (B) on September 1, 2006, does not have a valid certificate that the individual has  
3303 completed an alcohol training and education seminar for purposes of this section.

3304 (iii) The validity of a certificate that an individual has completed an alcohol training and  
3305 education seminar required by this section is governed by Section 62A-15-401.

3306 (2) In accordance with Section 32A-1-401, a local authority may immediately suspend  
3307 the license of an off-premise beer retailer that allows an employee to directly supervise the sale  
3308 of beer or to sell beer to a customer without having a valid certificate that the individual  
3309 completed an alcohol training and education seminar in accordance with Subsection (1).

3310 (3) (a) Each employee of a licensed off-premise beer retailer who directly supervises the  
3311 sale of beer or who sells beer to a customer for consumption off the premises of the off-premise  
3312 beer retailer shall wear a unique identification badge:

3313 (i) on the front of the employee's clothing;

3314 (ii) visible above the waist;

3315 (iii) bearing the employee's:

3316 (A) first or last name;

3317 (B) initials; or

3318 (C) unique identification in letters or numbers; and

3319 (iv) with the number or letters on the unique identification badge being sufficiently large  
3320 to be clearly visible and identifiable while engaging in or directly supervising the retail sale of  
3321 beer.

3322 (b) (i) An off-premise beer retailer licensee shall maintain a record of all current  
3323 employee unique identification badges assigned by the off-premise beer retailer licensee.

3324 (ii) The record required to be maintained under Subsection (3)(b)(i) shall:

3325 (A) be available for immediate inspection by:

3326 (I) any peace officer; or

3327 (II) a representative of the local licensing authority; and

3328 (B) include the employee's:

3329 (I) full name;

3330 (II) address; and

3331 (III) (Aa) driver license number; or

3332 (Bb) similar identification number.

3333 (c) A local authority may impose a fine of up to \$250 against any off-premise beer

3334 retailer that does not comply or require its employees to comply with this Subsection (3).

3335 (4) (a) In addition to any criminal penalties that may be imposed, an individual is subject  
3336 to the administrative penalties imposed by a local authority described in Subsection (4)(b) if:

3337 (i) that individual:

3338 (A) completes an alcohol training and education seminar required by Subsection (1);  
3339 and

3340 (B) after completing the alcohol training and education seminar required by Subsection  
3341 (1), is found in violation of any law involving the sale of an alcoholic beverage to a minor;

3342 (ii) the violation described in Subsection (4)(a)(i)(B) is based on conduct that occurs  
3343 while the individual is on duty as an employee of an off-premise beer retailer licensee; and

3344 (iii) the local authority brings an adjudicative proceeding against the individual.

3345 (b) If the conditions of Subsection (4)(a) are met, a local authority shall impose the  
3346 following administrative penalties:

3347 (i) upon a first violation, the individual may not sell or directly supervise the sale of beer  
3348 to a customer for consumption off the premises of the off-premise beer retailer licensee until the  
3349 individual retakes and completes an alcohol training and education seminar described in Section  
3350 62A-15-401;

3351 (ii) upon a second violation, the individual may not sell or directly supervise the sale of  
3352 beer to a customer for consumption off the premises of the off-premise beer retailer licensee  
3353 until the later of:

3354 (A) 90 days from the day on which the administrative penalty is imposed; and

3355 (B) the day on which the individual:

3356 (I) retakes and completes the alcohol training and education seminar described in  
3357 Section 62A-15-401; and

3358 (II) completes any additional training that the local authority may require; and

3359 (iii) upon a third or subsequent violation, the individual may not sell or directly  
3360 supervise the sale of beer to a customer for consumption off the premises of the off-premise  
3361 beer retailer licensee until the later of:



3362 (A) one year from the day on which the administrative penalty is imposed; and  
3363 (B) the day on which the individual:  
3364 (I) retakes and completes an alcohol training and education seminar described in  
3365 Section 62A-15-401; and  
3366 (II) completes any additional training that the local authority may require.  
3367 (c) (i) During the period of time an individual is prohibited from selling or directly  
3368 supervising the sale of beer under Subsection (4)(b), an off-premise beer retailer licensee may  
3369 not allow that individual to:  
3370 (A) directly supervise the sale of beer for the off-premise beer retailer licensee; or  
3371 (B) sell beer for the off-premise beer retailer licensee.  
3372 (ii) A violation of this Subsection (4)(c) is grounds for the immediate suspension of the  
3373 off-premise beer retailer's license.  
3374 (5) (a) In addition to any criminal penalties that may be imposed, an off-premise beer  
3375 retailer licensee is subject to the administrative penalties imposed by a local authority described  
3376 in Subsection (5)(b) if:  
3377 (i) an employee of the off-premise beer retailer licensee is found in violation of any law  
3378 involving the sale of alcoholic beverage to a minor;  
3379 (ii) the violation described in Subsection (5)(a)(i) occurs while the employee is on duty  
3380 for the off-premise beer retailer licensee; and  
3381 (iii) the local authority brings an adjudicative proceeding against the off-premise beer  
3382 retailer licensee.  
3383 (b) If the conditions of Subsection (5)(a) are met, a local authority shall impose the  
3384 following administrative penalties:  
3385 (i) upon a first violation, the off-premise beer retailer licensee shall be issued a written  
3386 warning;  
3387 (ii) upon a second violation, the off-premise beer retailer licensee shall pay a civil fine of  
3388 \$250;  
3389 (iii) upon a third violation, the off-premise beer retailer licensee shall pay a civil fine of

3390 \$500;

3391 (iv) upon a fourth or subsequent violation, the off-premise beer retailer licensee shall:

3392 (A) pay a civil fine of \$500;

3393 (B) have its license to sell beer suspended for a period of 30 consecutive days from the  
3394 date on which the administrative penalty is imposed; and

3395 (C) be placed on probation for a period of one year from the date on which the  
3396 administrative penalty is imposed; and

3397 (v) upon any violation by the off-premise beer retailer licensee or any on-duty employee  
3398 of the off-premise beer retailer licensee during the period of probation specified in Subsection  
3399 (5)(b)(iv)(C):

3400 (A) the off-premise beer retailer licensee's license to sell beer shall be revoked; and

3401 (B) the off-premise beer retailer licensee is not eligible to reapply for a new license for  
3402 at least six months from the date of revocation.

3403 (c) (i) An off-premise beer retailer licensee's failure to pay a fine imposed under this  
3404 Subsection (5) within 30 days of the day on which the fine is imposed is grounds for the  
3405 immediate suspension of the off-premise beer retailer licensee's license to sell beer until payment  
3406 is made.

3407 (ii) An off-premise beer retailer licensee's failure to pay the fine described in Subsection  
3408 (5)(c)(i) within 30 days of the day on which the license is suspended under Subsection (5)(c)(i)  
3409 is grounds for revocation of the licensee's license to sell beer.

3410 (6) (a) Any local authority that adjudicates an administrative penalty for a violation of  
3411 any law involving the sale of an alcoholic beverage to any minor pursuant to Subsection (4) or  
3412 (5), shall:

3413 (i) maintain a record of the adjudicated violation until the record is expunged under  
3414 Subsection (6)(c);

3415 (ii) include in the record described in Subsection (6)(a)(i):

3416 (A) the name of the individual who committed the violation;

3417 (B) the name of the off-premise beer retailer licensee for whom the individual was

3418 employed at the time of the violation; and

3419 (C) the date of the adjudication of the violation; and

3420 (iii) provide the Highway Safety Office of the Department of Public Safety within 30  
3421 days of the date on which a violation is adjudicated the information described in Subsection  
3422 (6)(a)(ii).

3423 (b) (i) The Highway Safety Office shall develop and operate a system to collect,  
3424 analyze, maintain, track, and disseminate the violation history information received under  
3425 Subsection (6)(a).

3426 (ii) The system described in Subsection (6)(b)(i) shall be made available to:

3427 (A) assist a local authority in assessing administrative penalties under Subsection (4);  
3428 and

3429 (B) inform an off-premise beer retailer licensee of an individual who has an  
3430 administrative violation history under Subsection (4).

3431 (iii) The Highway Safety Office shall maintain a record of violation history information  
3432 received pursuant to Subsection (6)(a) until the record is expunged under Subsection (6)(c).

3433 (c) (i) A local authority and the Highway Safety Office shall expunge from the records  
3434 maintained under this Subsection (6) an administrative penalty imposed under Subsection (4) for  
3435 purposes of determining future administrative penalties under Subsection (4) if the individual  
3436 has not been found in violation of any law involving the sale of an alcoholic beverage to a minor  
3437 for a period of 36 consecutive months from the day on which the individual is last adjudicated  
3438 as violating a law involving the sale of an alcoholic beverage to a minor.

3439 (ii) A local authority shall expunge from the records maintained by the local authority  
3440 an administrative penalty imposed under Subsection (5) against an off-premise beer retailer  
3441 licensee for purposes of determining future administrative penalties under Subsection (5) if the  
3442 off-premise beer retailer licensee or any employee of that off-premise beer retailer licensee has  
3443 not been found in violation of any law involving the sale of an alcoholic beverage to a minor for  
3444 a period of 36 consecutive months from the day on which the off-premise beer retailer licensee  
3445 or its employee is last adjudicated as violating a law involving the sale of an alcoholic beverage

3446 to a minor.

3447 (7) (a) A local authority shall conduct a hearing if an off-premise beer retailer licensee  
3448 or individual identified in Subsection (1) requests a hearing before the local authority.

3449 (b) A local authority conducting a hearing under this Subsection (7) shall provide the  
3450 person requesting the hearing:

3451 (i) notice of the hearing; and

3452 (ii) an opportunity to be heard at the hearing.

3453 (8) The Highway Safety Office of the Department of Public Safety shall administer a  
3454 program to:

3455 (a) reimburse a municipal or county law enforcement agency:

3456 (i) for the actual costs of an alcohol-related compliance check investigation conducted  
3457 pursuant to Section 77-39-101 on the premises of an off-premise beer retailer;

3458 (ii) for any administrative costs associated with reporting the compliance check  
3459 investigation described in Subsection (8)(a)(i);

3460 (iii) if the municipal or county law enforcement agency completes and submits to the  
3461 Highway Safety Office a report within 90 days of the compliance check investigation described  
3462 in Subsection (8)(a)(i) in a format required by the Highway Safety Office; and

3463 (iv) in the order that the municipal or county law enforcement agency submits the  
3464 report required by Subsection (8)(a)(iii) until the amount allocated by the Highway Safety  
3465 Office to reimburse a municipal or county law enforcement agency is spent;

3466 (b) develop and operate a system to collect, analyze, maintain, track, and disseminate  
3467 violation history information pursuant to Subsection (6); and

3468 (c) have the Highway Safety Office report to the Utah Substance Abuse and  
3469 Anti-Violence Coordinating Council by no later than October 1 following a fiscal year on the  
3470 following funded during the prior fiscal year:

3471 (i) all compliance check investigations reimbursed under Subsection (8)(a); and

3472 (ii) the collection, analysis, maintenance, tracking, and dissemination of violation history  
3473 information provided in Subsection (8)(b).

3474 Section 33. Section **32A-10-202** is amended to read:

3475 **32A-10-202. Application and renewal requirements.**

3476 (1) A person seeking an on-premise beer retailer license under this chapter shall file a  
3477 written application with the department, in a form prescribed by the department. The  
3478 application shall be accompanied by:

3479 (a) a nonrefundable \$250 application fee;

3480 (b) an initial license fee that is refundable if a license is not granted in the following  
3481 amount:

3482 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial license  
3483 fee is \$150; or

3484 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is  
3485 \$1,250;

3486 (c) written consent of the local authority or a license to sell beer at retail for on-premise  
3487 consumption granted by the local authority under Section 32A-10-101;

3488 (d) a copy of the applicant's current business license;

3489 (e) evidence of proximity to any public or private school, church, public library, public  
3490 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of  
3491 Subsections 32A-10-201(3) and (4), the application shall be processed in accordance with those  
3492 subsections;

3493 (f) a bond as specified by Section 32A-10-205;

3494 (g) a floor plan of the premises, including consumption areas and the area where the  
3495 applicant proposes to keep, store, and sell beer;

3496 (h) evidence that the on-premise beer retailer licensee is carrying public liability  
3497 insurance in an amount and form satisfactory to the department;

3498 (i) for those licensees that sell more than \$5,000 of beer annually, evidence that the  
3499 on-premise beer retailer licensee is carrying dramshop insurance coverage of at least \$500,000  
3500 per occurrence and \$1,000,000 in the aggregate;

3501 (j) a signed consent form stating that the on-premise beer retailer licensee will permit

3502 any authorized representative of the commission, department, or any peace officer unrestricted  
3503 right to enter the licensee premises;

3504 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
3505 company, proper verification evidencing that the person or persons signing the on-premise beer  
3506 retailer licensee application are authorized to so act on the behalf of the partnership,  
3507 corporation, or limited liability company; and

3508 (l) any other information the department may require.

3509 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each  
3510 year.

3511 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the  
3512 person's on-premise beer retailer license shall submit by no later than January 31:

3513 (A) a completed renewal application to the department; and

3514 (B) a renewal fee in the following amount:

3515 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee  
3516 is \$200; or

3517 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is  
3518 \$1,000.

3519 (ii) A licensee is not required to submit a renewal fee if the licensee is:

3520 (A) a state agency; or

3521 (B) a political subdivision of the state including:

3522 (I) a county; or

3523 (II) a municipality.

3524 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
3525 the license, effective on the date the existing license expires.

3526 (d) Renewal applications shall be in a form as prescribed by the department.

3527 (3) To ensure compliance with Subsection 32A-10-206[~~(18)~~] (17), the commission may  
3528 suspend or revoke a beer retailer license if any beer retailer licensee does not immediately notify  
3529 the department of any change in:

- 3530 (a) ownership of the beer retailer;
- 3531 (b) for a corporate owner, the:
- 3532 (i) corporate officers or directors; and
- 3533 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
- 3534 corporation; or
- 3535 (c) for a limited liability company:
- 3536 (i) managers; or
- 3537 (ii) members owning at least 20% of the limited liability company.
- 3538 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and
- 3539 (f) if the applicant is:
- 3540 (a) a state agency; or
- 3541 (b) a political subdivision of the state including:
- 3542 (i) a county; or
- 3543 (ii) a municipality.
- 3544 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer
- 3545 license is required for each building or resort facility owned or leased by the same applicant.
- 3546 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each
- 3547 retail beer dispensing outlet located in the same building or on the same resort premises owned
- 3548 or operated by the same applicant.
- 3549 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets
- 3550 in the building or resort facility operate in the same manner.
- 3551 (ii) If the condition described in Subsection (5)(c)(i) is not met:
- 3552 (A) one state on-premise beer retailer tavern license is required for all outlets in the
- 3553 same building or on the same resort premises that operate as a tavern; and
- 3554 (B) one state on-premise beer retailer license is required for all outlets in the same
- 3555 building or on the same resort premises that do not operate as a tavern.
- 3556 Section 34. Section **32A-10-206** is amended to read:
- 3557 **32A-10-206. Operational restrictions.**

3558           Each person granted an on-premise beer retailer license and the employees and  
3559 management personnel of the on-premise beer retailer licensee shall comply with the following  
3560 conditions and requirements. Failure to comply may result in a suspension or revocation of the  
3561 license or other disciplinary action taken against individual employees or management  
3562 personnel.

3563           (1) (a) Subject to Subsection (1)(b), a beer retailer licensee may sell beer for on-premise  
3564 consumption:

3565                   (i) in an open container; and

3566                   (ii) on draft.

3567           (b) Beer sold pursuant to Subsection (1)(a) shall be in a size of container that does not  
3568 exceed two liters, except that beer may not be sold to an individual patron in a size of container  
3569 that exceeds one liter.

3570           (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer  
3571 licensee.

3572           (3) A patron of the on-premise beer retailer may only make purchases from and be  
3573 served by a person employed, designated, and trained by the licensee to sell and serve beer.

3574           (4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at any  
3575 on-premise beer retailer establishment after 1 a.m. and before 10 a.m.

3576                   (b) Beer may not be sold, served, or otherwise furnished to any:

3577                           (i) minor;

3578                           (ii) person actually, apparently, or obviously intoxicated;

3579                           (iii) known habitual drunkard; or

3580                           (iv) known interdicted person.

3581           (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall  
3582 remain open for one hour after the tavern ceases the sale and service of alcoholic beverages  
3583 during which time a patron of the tavern may finish consuming a single serving of beer not  
3584 exceeding 26 ounces.

3585                   (ii) A tavern is not required to remain open:



- 3586 (A) after all patrons have vacated the premises; or  
3587 (B) during an emergency.
- 3588 (d) Between the hours of 2 a.m. and 10 a.m. on any day a tavern may not allow a  
3589 patron to remain on the premises to consume alcoholic beverages on the premises.
- 3590 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.  
3591 (b) Beer may not be sold at a special or reduced price that encourages over  
3592 consumption or intoxication.
- 3593 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer  
3594 retailer's business day such as a "happy hour."
- 3595 (d) The sale or service of more than one alcoholic beverage for the price of a single  
3596 alcoholic beverage is prohibited.
- 3597 (e) The sale or service of an indefinite or unlimited number of alcoholic beverages  
3598 during any set period for a fixed price is prohibited.
- 3599 (f) An on-premise beer licensee may not engage in a public promotion involving or  
3600 offering free alcoholic beverages to the general public.
- 3601 (6) Beer may not be purchased for a patron of the on-premise beer establishment by:  
3602 (a) the licensee; or  
3603 (b) an employee or agent of the licensee.
- 3604 [~~6~~] (7) Beer sold in sealed containers by the on-premise beer retailer licensee may be  
3605 removed from the on-premise beer retailer premises.
- 3606 [~~7~~] (8) (a) A person may not bring onto the premises of an on-premise beer retailer  
3607 licensee any alcoholic beverage for on-premise consumption.
- 3608 (b) An on-premise beer retailer licensee or its officers, managers, employees, or agents  
3609 may not:
- 3610 (i) allow a person to bring onto the on-premise beer retailer licensee premises any  
3611 alcoholic beverage for on-premise consumption; or  
3612 (ii) allow consumption of any such alcoholic beverage on its premises.
- 3613 [~~8~~] (9) An on-premise beer retailer licensee and its employees may not permit a patron

3614 to carry from the premises an open container that:

3615 (a) is used primarily for drinking purposes; and

3616 (b) contains any alcoholic beverage.

3617 ~~[(9)]~~ (10) (a) Except as provided in Subsection ~~[(9)]~~ (10)(b), a minor may not be:

3618 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell,  
3619 dispense, or otherwise furnish beer; or

3620 (ii) on the premises of any tavern.

3621 (b) Notwithstanding Subsection ~~[(9)]~~ (10)(a), a minor who is at least 16 years of age  
3622 may be employed to enter the sale at a cash register or other sales recording device on the  
3623 premises of an on-premise beer retailer that is not a tavern.

3624 ~~[(10)]~~ (11) An employee of a licensee, while on duty, may not:

3625 (a) consume an alcoholic beverage; or

3626 (b) be intoxicated.

3627 ~~[(11)]~~ (12) Each on-premise beer retailer licensee shall display in a prominent place in  
3628 the on-premise beer retailer licensee:

3629 (a) the on-premise beer retailer license that is issued by the department; and

3630 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
3631 drugs is a serious crime that is prosecuted aggressively in Utah."

3632 ~~[(12) The following acts or conduct in an on-premise beer retailer outlet licensed under~~  
3633 ~~this part are considered contrary to the public welfare and morals, and are prohibited upon the~~  
3634 ~~premises:]~~

3635 ~~[(a) employing or using any person in the sale or service of alcoholic beverages while~~  
3636 ~~the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the~~  
3637 ~~female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the~~  
3638 ~~buttocks, vulva, or genitals;]~~

3639 ~~[(b) employing or using the services of any person to mingle with the patrons while the~~  
3640 ~~person is unclothed or in attire, costume, or clothing as described in Subsection (12)(a);]~~

3641 ~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts;~~

3642 ~~buttocks, anus, or genitals of any other person;]~~

3643 ~~[(d) permitting any employee or person to wear or use any device or covering, exposed~~  
3644 ~~to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

3645 ~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of~~  
3646 ~~the prohibited activities described in this section;]~~

3647 ~~[(f) permitting any person to remain in or upon the premises who exposes to public~~  
3648 ~~view any portion of his or her genitals or anus; or]~~

3649 ~~[(g) showing films, still pictures, electronic reproductions, or other visual reproductions~~  
3650 ~~depicting;]~~

3651 ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral~~  
3652 ~~copulation, flagellation, or any sexual acts that are prohibited by Utah law;]~~

3653 ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or~~  
3654 ~~genitals;]~~

3655 ~~[(iii) scenes wherein artificial devices or inanimate objects are employed to depict, or~~  
3656 ~~drawings are employed to portray, any of the prohibited activities described in this section; or]~~

3657 ~~[(iv) scenes wherein a person displays the vulva or the anus or the genitals.]~~

3658 ~~[(13) Nothing in Subsection (12) precludes a local authority from being more restrictive~~  
3659 ~~of acts or conduct of the type prohibited in Subsection (12).]~~

3660 ~~[(14) (a) Although live entertainment is permitted on the premises of an on-premise~~  
3661 ~~beer retailer licensee, a licensee may not permit any person to perform or simulate sexual acts~~  
3662 ~~prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral~~  
3663 ~~copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or~~  
3664 ~~genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform~~  
3665 ~~only upon a stage or at a designated area approved by the commission.]~~

3666 ~~[(b) Nothing in Subsection (14)(a) precludes a local authority from being more~~  
3667 ~~restrictive of acts or conduct of the type prohibited in Subsection (14)(a).]~~

3668 ~~[(15)]~~ (13) An on-premise beer retailer licensee may not engage in or permit any form  
3669 of gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter

3670 10, Part 11, Gambling, on the premises of the on-premise beer retailer licensee.

3671 ~~[(16)]~~ (14) (a) Each on-premise beer retailer licensee shall maintain accounting and  
3672 other records and documents as the department may require.

3673 (b) Any on-premise beer retailer licensee or person acting for the on-premise beer  
3674 retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes  
3675 the entries in any of the books of account or other documents of the on-premise beer retailer  
3676 licensee required to be made, maintained, or preserved by this title or the rules of the  
3677 commission for the purpose of deceiving the commission or the department, or any of their  
3678 officials or employees, is subject to:

3679 (i) the immediate suspension or revocation of the on-premise beer retailer license; and

3680 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

3681 (15) (a) A tavern licensed under this chapter may not close or cease operation for a  
3682 period longer than 240 hours, unless:

3683 (i) the tavern licensee notifies the department in writing at least seven days before the  
3684 closing; and

3685 (ii) the closure or cessation of operation is first approved by the department.

3686 (b) Notwithstanding Subsection (15)(a), in the case of emergency closure, immediate  
3687 notice of closure shall be made to the department by telephone.

3688 (c) (i) The department may authorize a closure or cessation of operation for a period  
3689 not to exceed 60 days.

3690 (ii) The department may extend the initial period an additional 30 days upon:

3691 (A) written request of the tavern licensee; and

3692 (B) a showing of good cause.

3693 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
3694 commission approval.

3695 (d) A notice of closure or cessation by a tavern licensee shall include:

3696 (i) the date of closure or cessation of operation;

3697 (ii) the reason for the closure or cessation of operation; and

- 3698            (iii) the dates on which the tavern licensee will reopen or resume operation.
- 3699            (e) Failure of the tavern licensee to provide notice and to obtain department
- 3700 authorization before closure or cessation of operation shall result effective immediately in an
- 3701 automatic forfeiture of:
- 3702            (i) the license; and
- 3703            (ii) the unused portion of the license fee for the remainder of the license year.
- 3704            (f) Failure of the tavern licensee to reopen or resume operation by the approved date
- 3705 shall result in an automatic forfeiture of:
- 3706            (i) the license; and
- 3707            (ii) the unused portion of the license fee for the remainder of the license year.
- 3708            ~~[(+7)]~~ (16) An on-premise beer retailer license may not be transferred from one location
- 3709 to another, without prior written approval of the commission.
- 3710            ~~[(+8)]~~ (17) (a) An on-premise beer retailer licensee may not sell, transfer, assign,
- 3711 exchange, barter, give, or attempt in any way to dispose of the license to any person, whether
- 3712 for monetary gain or not.
- 3713            (b) An on-premise beer retailer license has no monetary value for the purpose of any
- 3714 type of disposition.
- 3715            Section 35. Section **32A-10-306** is amended to read:
- 3716            **32A-10-306. Operational restrictions.**
- 3717            (1) (a) Any person granted a temporary special event beer permit and any person
- 3718 involved in the storage, sale, or service of beer at the event for which a temporary special event
- 3719 the permit is issued, shall abide by this title, the rules of the commission, and the special
- 3720 conditions and requirements provided in this section.
- 3721            (b) Failure to comply as provided in Subsection (1)(a):
- 3722            (i) may result in:
- 3723            (A) an immediate revocation of the permit;
- 3724            (B) forfeiture of the surety bond; and
- 3725            (C) immediate seizure of all beer present at the event; and

3726 (ii) disqualifies the organization from applying for a temporary special event beer permit  
3727 under this part or a single event permit under Chapter 7, Single Event Permits, for a period of  
3728 three years from the date of revocation of the temporary special event permit.

3729 (c) Any beer seized under this Subsection (1) shall be returned to the organization after  
3730 the event if forfeiture proceedings are not instituted under Section 32A-13-103.

3731 (2) Special conditions and requirements for temporary special event beer permittees  
3732 include the following:

3733 (a) (i) All persons involved in the storage, sale, or service of beer at the temporary  
3734 special event do so under the supervision and direction of the permittee.

3735 (ii) All persons involved in the sale or service of beer at the temporary special event  
3736 may not, while on duty:

3737 (A) consume an alcoholic beverage; or

3738 (B) be intoxicated.

3739 (b) (i) All beer stored, sold, served, and consumed at the temporary special event shall  
3740 be purchased by the permittee from a licensed beer wholesaler or retailer.

3741 (ii) All beer is considered under the control of the permittee during the temporary  
3742 special event.

3743 (iii) An attendee of the temporary special event may not bring any alcoholic beverages  
3744 onto the premises of the temporary special event.

3745 (c) Each permittee shall post in a prominent place in the area in which beer is being  
3746 sold, served, and consumed:

3747 (i) a copy of the permit; and

3748 (ii) a list of the operational restrictions and requirements of temporary special event  
3749 beer permittees set forth in this section.

3750 (d) Beer purchased for a temporary special event may not be stored, sold, served, or  
3751 consumed in any location other than that described in the application and designated on the  
3752 temporary special event permit unless the permittee first applies for and receives approval from  
3753 the commission for a change of location.

3754 (e) (i) Subject to Subsection (2)(e)(ii), beer may be sold for on-premise consumption:

3755 (A) in an open container; and

3756 (B) on draft.

3757 (ii) Beer sold pursuant to Subsection (2)(e)(i) shall be in a size of container that does  
3758 not exceed two liters, except that beer may not be sold to an individual attendee in a size of  
3759 container that exceeds one liter.

3760 (f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed  
3761 between the hours of 1 a.m. and 10 a.m.

3762 (ii) This Subsection (2)(f) does not preclude a local authority from being more  
3763 restrictive with respect to the hours of sale, service, or consumption of beer at a temporary  
3764 special event.

3765 (g) Beer may not be sold, served, or otherwise furnished to any:

3766 (i) minor;

3767 (ii) person actually, apparently, or obviously intoxicated;

3768 (iii) known habitual drunkard; or

3769 (iv) known interdicted person.

3770 (h) (i) Beer may not be sold at less than the cost of the beer to the permittee.

3771 (ii) Beer may not be sold at a price that encourages over consumption or intoxication.

3772 (iii) Beer may not be sold at a special or reduced price for only certain hours of the day  
3773 of the permitted event.

3774 (iv) The sale or service of more than one beer beverage for the price of a single beer  
3775 beverage is prohibited.

3776 (v) The permittee may not engage in a public promotion involving or offering free beer  
3777 to the general public.

3778 (i) The permittee and its employees may not permit an attendee to carry from the  
3779 premises an open container that:

3780 (i) is used for drinking purposes; and

3781 (ii) contains any alcoholic beverage.

(j) A minor may not sell, serve, dispense, or handle any beer at a temporary special event.

~~[(3) The following acts or conduct at an event for which a permit is issued under this part are considered contrary to the public welfare and morals, and are prohibited upon the premises:]~~

~~[(a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;]~~

~~[(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);]~~

~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;]~~

~~[(d) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Subsection (3);]~~

~~[(f) permitting any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus; or]~~

~~[(g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:]~~

~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;]~~

~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this Subsection (3); or]~~



3810 ~~[(iv) scenes wherein a person displays the vulva, anus, or the genitals.]~~

3811 ~~[(4) Nothing in Subsection (3) precludes a local authority from being more restrictive of~~  
3812 ~~acts or conduct of the type prohibited in Subsection (3).]~~

3813 ~~[(5) (a) Although live entertainment is permitted at the event for which a permit has~~  
3814 ~~been issued under this chapter, a permittee may not allow any person to perform or simulate~~  
3815 ~~sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy,~~  
3816 ~~bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast,~~  
3817 ~~buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.~~  
3818 ~~Entertainers shall perform only upon a stage or at a designated area approved by the~~  
3819 ~~commission.]~~

3820 ~~[(b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive~~  
3821 ~~of acts or conduct of the type prohibited in Subsection (5)(a).]~~

3822 ~~[(6)]~~ (3) The permittee shall maintain an expense and revenue ledger or record showing:

3823 (a) expenditures made for beer; and

3824 (b) the revenue from sale of beer.

3825 ~~[(7)]~~ (4) A temporary special event beer permit may not be transferred.

3826 ~~[(8)]~~ (5) A temporary special event beer permittee may not engage in or allow any form  
3827 of gambling, or have any video gaming device as defined and proscribed by Title 76, Chapter  
3828 10, Part 11, Gambling, on the premises serviced by the permittee.

3829 Section 36. Section **32A-12-209** is amended to read:

3830 **32A-12-209. Unlawful purchase, possession, consumption by minors --**

3831 **Measurable amounts in body.**

3832 (1) Unless specifically authorized by this title, it is unlawful for any minor to:

3833 (a) purchase any alcoholic beverage or product;

3834 (b) attempt to purchase any alcoholic beverage or product;

3835 (c) solicit another person to purchase any alcoholic beverage or product;

3836 (d) possess any alcoholic beverage or product;

3837 (e) consume any alcoholic beverage or product; or

3838 (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.

3839 (2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic  
3840 beverage or product for a minor for:

3841 (a) any minor to misrepresent the minor's age; or

3842 (b) any other person to misrepresent the age of a minor.

3843 (3) It is unlawful for a minor to possess or consume any alcoholic beverage while riding  
3844 in a limousine or chartered bus.

3845 (4) When a minor who is at least 18 years old, but younger than 21 years old, is found  
3846 by a court to have violated this section:

3847 (a) if the violation is the minor's first violation of this section, the court may suspend the  
3848 minor's driving privileges; or

3849 (b) if the violation is the minor's second or subsequent violation of this section, the  
3850 court shall suspend the minor's driving privileges.

3851 ~~[(4)]~~ (5) When a ~~[person]~~ minor who is at least 13 years old, but younger than 18 years  
3852 old, is found by the court to have violated this section, the provisions regarding suspension of  
3853 the driver's license under Section 78-3a-506 apply to the violation.

3854 ~~[(5)]~~ (6) When the court ~~[has issued]~~ issues an order suspending a person's driving  
3855 privileges for a violation of this section, the Driver License Division shall suspend the person's  
3856 license under ~~[the provisions of]~~ Section 53-3-219.

3857 ~~[(6)]~~ (7) When the Department of Public Safety receives the arrest or conviction record  
3858 of a person for a driving offense committed while the person's license is suspended pursuant to  
3859 this section, the department shall extend the suspension for an additional like period of time.

3860 ~~[(7)]~~ (8) This section does not apply to a minor's consumption of an alcoholic beverage  
3861 or product in accordance with this title:

3862 (a) for medicinal purposes if the alcoholic beverage or product is furnished by:

3863 (i) the parent or guardian of the minor; or

3864 (ii) the minor's physician or dentist; or

3865 (b) as part of a church's or religious organization's religious services.

Section 37. Section **32A-12-209.5** is enacted to read:

**32A-12-209.5. Unlawful admittance or attempt to gain admittance by minor.**

(1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the premises of:

(a) a tavern; or

(b) a class D private club, except to the extent authorized by Subsection 32A-5-107(8).

(2) A minor who violates this section is guilty of a class C misdemeanor.

(3) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section:

(a) if the violation is the minor's first violation of this section, the court may suspend the minor's driving privileges; or

(b) if the violation is the minor's second or subsequent violation of this section, the court shall suspend the minor's driving privileges.

(4) When a minor who is at least 13 years old, but younger than 18 years old, is found by a court to have violated this section, the provisions regarding suspension of the driver's license under Section 78-3a-506 apply to the violation.

(5) When the court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(6) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the department shall extend the suspension for an additional like period of time.

Section 38. Section **32A-12-213** is amended to read:

**32A-12-213. Unlawful bringing onto premises for consumption.**

(1) Except as provided in Subsection (3), a person may not bring for on-premise consumption any alcoholic beverage onto the premises of any:

(a) licensed or unlicensed restaurant;

(b) licensed or unlicensed private club;

- 3894 (c) airport lounge licensee;  
3895 (d) on-premise banquet licensee;  
3896 (e) on-premise beer retailer licensee;  
3897 (f) event where alcoholic beverages are sold or served under a single event permit or  
3898 temporary special event beer permit issued under this title; or  
3899 (g) any establishment open to the general public.

3900 (2) Except as provided in Subsection (3), a licensed or unlicensed restaurant or private  
3901 club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer licensee, or  
3902 holder of a single event permit or temporary special event beer permit issued under this title, or  
3903 its officers, managers, employees, or agents may not allow a person to bring onto its premises  
3904 any alcoholic beverage for on-premise consumption or allow consumption of any such alcoholic  
3905 beverage in violation of this section.

3906 (3) (a) A person may bring bottled wine onto the premises of any restaurant liquor  
3907 licensee, limited restaurant licensee, or private club licensee and consume the wine pursuant to  
3908 the applicable restrictions contained in Subsection 32A-4-106(14), 32A-4-307(14), or  
3909 32A-5-107[~~(32)~~] (31);

3910 (b) a passenger of a limousine may bring onto, have, and consume any alcoholic  
3911 beverage on the limousine if:

3912 (i) the travel of the limousine begins and ends at:

3913 (A) the residence of the passenger;

3914 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

3915 (C) the temporary domicile of the passenger; and

3916 (ii) the driver of the limousine is separated from the passengers by partition or other  
3917 means approved by the department;

3918 (c) a passenger of a chartered bus may bring onto, have, and consume any alcoholic  
3919 beverage on the chartered bus:

3920 (i) (A) but may consume only during travel to a specified destination of the chartered  
3921 bus and not during travel back to the place where the travel begins; or

3922 (B) if the travel of the chartered bus begins and ends at:  
3923 (I) the residence of the passenger;  
3924 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or  
3925 (III) the temporary domicile of the passenger; and  
3926 (ii) the chartered bus has a nondrinking designee other than the driver traveling on the  
3927 chartered bus to monitor consumption; and  
3928 (d) a person may bring onto any premises, have, and consume any alcoholic beverage at  
3929 a privately hosted event that is not open to the general public.  
3930 (4) Except as provided in Subsection (3)(c)(i)(A), the consumption of alcoholic  
3931 beverages in limousines and chartered buses is not allowed if the limousine or chartered bus  
3932 drops off passengers at locations from which they depart in private vehicles.  
3933 Section 39. Section **32A-12-401** is amended to read:  
3934 **32A-12-401. Advertising prohibited -- Exceptions.**  
3935 (1) (a) The advertising of liquor by the department is prohibited, except:  
3936 ~~[(a)]~~ (i) the department may provide for an appropriate sign in the window or on the  
3937 front of a state store or package agency denoting that it is a state authorized liquor outlet;  
3938 ~~[(b)]~~ (ii) the department or a package agency may provide printed price lists to the  
3939 public; ~~[and]~~  
3940 ~~[(c)]~~ (iii) the department may authorize the use of price posting and floor stacking of  
3941 liquor within state stores[-];  
3942 (iv) subject to Subsection (1)(b), the department may provide a listing of the address  
3943 and telephone number of a state store in one or more printed or electronic directories available  
3944 to the general public; and  
3945 (v) subject to Subsection (1)(b), a package agency may provide a listing of its address  
3946 and telephone number in one or more printed or electronic directories available to the general  
3947 public.  
3948 (b) Any listing under Subsection (1)(a)(iv) or (v) in the business or yellow pages of a  
3949 telephone directory may not be displayed in an advertisement or other promotional format.

3950 (2) (a) The department may not advertise alcoholic beverages on billboards.

3951 (b) A package agency may not advertise alcoholic beverages on billboards except to the  
3952 extent allowed by the commission by rule.

3953 (3) (a) The department may not display liquor or price lists in windows or showcases  
3954 visible to passersby.

3955 (b) A package agency may not display liquor or price lists in windows or showcases  
3956 visible to passersby except to the extent allowed by the commission by rule.

3957 (4) Except to the extent prohibited by this title, the advertising of alcoholic beverages is  
3958 allowed under guidelines established by the commission by rule.

3959 (5) The advertising or use of any means or media to offer alcoholic beverages to the  
3960 general public without charge is prohibited.

3961 Section 40. Section **32A-14a-102** is amended to read:

3962 **32A-14a-102. Liability for injuries and damage resulting from distribution of**  
3963 **alcoholic beverages -- Causes of action -- Statute of limitations -- Employee protections.**

3964 (1) (a) Except as provided in Section 32A-14a-103, a person described in Subsection  
3965 (1)(b) is liable for:

3966 (i) any and all injury and damage, except punitive damages to:

3967 (A) any third person; or

3968 (B) the heir, as defined in Section 78-11-6.5, of that third person; or

3969 (ii) for the death of a third person.

3970 (b) A person is liable under Subsection (1)(a) if:

3971 (i) the person directly gives, sells, or otherwise provides an alcoholic beverage:

3972 (A) to a person described in Subsection (1)(b)(ii); and

3973 (B) as part of the commercial sale, storage, service, manufacture, distribution, or  
3974 consumption of alcoholic products;

3975 (ii) those actions cause the intoxication of:

3976 (A) any individual under the age of 21 years;

3977 (B) any individual who is apparently under the influence of intoxicating alcoholic

3978 products or drugs;

3979 (C) any individual whom the person furnishing the alcoholic beverage knew or should  
3980 have known from the circumstances was under the influence of intoxicating alcoholic beverages  
3981 or products or drugs; or

3982 (D) any individual who is a known interdicted person; and

3983 (iii) the injury or death described in Subsection (1)(a) results from the intoxication of  
3984 the individual who is provided the alcoholic beverage.

3985 (2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable  
3986 for:

3987 (i) any and all injury and damage, except punitive damages to:

3988 (A) any third person; or

3989 (B) the heir, as defined in Section 78-11-6.5, of that third person; or

3990 (ii) for the death of the third person.

3991 (b) A person is liable under Subsection (2)(a) if:

3992 (i) that person directly gives or otherwise provides an alcoholic beverage to an  
3993 individual who the person knows or should have known is under the age of 21 years;

3994 (ii) those actions caused the intoxication of the individual provided the alcoholic  
3995 beverage;

3996 (iii) the injury or death described in Subsection (2)(a) results from the intoxication of  
3997 the individual who is provided the alcoholic beverage; and

3998 (iv) the person is not liable under Subsection (1), because the person did not directly  
3999 give or provide the alcoholic beverage as part of the commercial sale, storage, service,  
4000 manufacture, distribution, or consumption of alcoholic products.

4001 (3) Except for a violation of Subsection (2), an employer is liable for the actions of its  
4002 employees in violation of this chapter.

4003 (4) A person who suffers an injury under Subsection (1) or (2) has a cause of action  
4004 against the person who provided the alcoholic beverage in violation of Subsection (1) or (2).

4005 (5) If a person having rights or liabilities under this chapter dies, the rights or liabilities

4006 provided by this chapter survive to or against that person's estate.

4007 (6) The total amount that may be awarded to any person pursuant to a cause of action  
4008 for injury and damage under this chapter that arises after January 1, 1998, is limited to \$500,000  
4009 and the aggregate amount which may be awarded to all persons injured as a result of one  
4010 occurrence is limited to \$1,000,000.

4011 (7) An action based upon a cause of action under this chapter shall be commenced  
4012 within two years after the date of the injury and damage.

4013 (8) (a) Nothing in this chapter precludes any cause of action or additional recovery  
4014 against the person causing the injury.

4015 (b) Any cause of action or additional recovery against the person causing the injury and  
4016 damage, which action is not brought under this chapter, is exempt from the damage cap in  
4017 Subsection (6).

4018 (c) Any cause of action brought under this chapter is exempt from Sections 78-27-37  
4019 through 78-27-43.

4020 (9) This section does not apply to a [~~general food store or other establishment~~] business  
4021 licensed under Chapter 10, Part 1, General Provisions, to sell beer at retail only for off-premise  
4022 consumption.

4023 Section 41. Section **53-3-219** is amended to read:

4024 **53-3-219. Suspension of minor's driving privileges.**

4025 (1) The division shall immediately suspend all driving privileges of any person upon  
4026 receipt of an order suspending driving privileges under Section 32A-12-209, Section  
4027 32A-12-209.5, Subsection 76-9-701(1), or Section 78-3a-506.

4028 (a) Upon receipt of the first order suspending a person's driving privileges, the division  
4029 shall impose a suspension for 90 days or, if the person is under the age of eligibility for a driver  
4030 license, the suspension shall begin on the date of conviction and continue for the first 90 days  
4031 following the date of eligibility.

4032 (b) Upon receipt of a second order suspending a person's driving privileges, the division  
4033 shall impose a suspension for six months or, if the person is under the age of eligibility for a



driver license, the suspension shall begin on the date of conviction and continue for the first six months following the date of eligibility.

(c) Upon receipt of a third or subsequent order suspending a person's driving privileges, the division shall impose a suspension for one year or, if the person is under the age of eligibility for a driver license, the suspension shall begin on the date of conviction and continue for one year beginning on the date of eligibility.

(2) After reinstatement of the license under Subsection (1)(a), a report authorized under Section 53-3-104 may not contain evidence of the suspension of a minor's license under this section if the minor has not been convicted of any other offense for which the suspension under Subsection (1)(a) may be extended.

Section 42. Section **62A-15-401** is amended to read:

**62A-15-401. Alcohol training and education seminar.**

(1) As used in this part:

~~[(a) "general food store" is as defined in Section 32A-1-105;]~~

~~[(b)]~~ (a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider[;].

~~[(c)]~~ (b) "Licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32A, Alcoholic Beverage Control Act;  
and

(B) engaged in the retail sale of alcoholic beverages for consumption on the premises of the licensee; or

(ii) a ~~[general food store or similar]~~ business that is:

(A) a new or renewing licensee licensed by a city, town, or county; and

(B) engaged in the retail sale of beer for consumption off the premises of the licensee[;].

~~[(d)]~~ (c) "Off-premise beer retailer" is as defined in Section 32A-1-105~~[, and]~~.

~~[(e)]~~ (d) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to an individual who, as defined by the board by rule:

4062 (i) manages operations at the premises of a licensee engaged in the retail sale of  
4063 alcoholic beverages for consumption on the premises of the licensee;

4064 (ii) supervises the serving of alcoholic beverages to a customer for consumption on the  
4065 premises of a licensee;

4066 (iii) serves alcoholic beverages to a customer for consumption on the premises of a  
4067 licensee;

4068 (iv) directly supervises the sale of beer to a customer for consumption off the premises  
4069 of an off-premise beer retailer licensee; or

4070 (v) sells beer to a customer for consumption off the premises of an off-premise beer  
4071 retailer licensee.

4072 (b) If the individual does not have a valid certificate that the individual has completed an  
4073 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

4074 (i) (A) complete an alcohol training and education seminar within 30 days of the  
4075 following if the individual is described in Subsections (2)(a)(i) through (iii):

4076 (I) if the individual is an employee, the day the individual begins employment;

4077 (II) if the individual is an independent contractor, the day the individual is first hired; or

4078 (III) if the individual holds an ownership interest in the licensee, the day that the  
4079 individual first engages in an activity that would result in that individual being required to  
4080 complete an alcohol training and education seminar; or

4081 (B) complete an alcohol training and education seminar within the time periods  
4082 specified in Subsection 32A-10-103(1) if the individual is described in Subsections (2)(a)(iv)  
4083 and (v); and

4084 (ii) pay a fee:

4085 (A) to the seminar provider; and

4086 (B) that is equal to or greater than the amount established under Subsection (4)(h).

4087 (c) An individual shall have a valid certificate that the individual completed an alcohol  
4088 training and education seminar within the time period provided in this Subsection (2) to engage  
4089 in an activity described in Subsection (2)(a).

4090 (d) A certificate that an individual has completed an alcohol training and education  
4091 seminar is valid for:

4092 (i) three years from the day on which the certificate is issued for an individual described  
4093 in Subsection (2)(a)(i), (ii), or (iii); and

4094 (ii) five years from the day on which the certificate is issued for an individual described  
4095 in Subsection (2)(a)(iv) or (v).

4096 (3) (a) A licensee may not permit an individual who is not in compliance with  
4097 Subsection (2) to:

4098 (i) serve or supervise the serving of alcoholic beverages to a customer for consumption  
4099 on the premises of the licensee;

4100 (ii) engage in any activity that would constitute managing operations at the premises of  
4101 a licensee that engages in the retail sale of alcoholic beverages for consumption on the premises  
4102 of the licensee;

4103 (iii) directly supervise the sale of beer to a customer for consumption off the premises  
4104 of an off-premise beer retailer licensee; or

4105 (iv) sell beer to a customer for consumption off the premises of an off-premise beer  
4106 retailer licensee.

4107 (b) A licensee that violates Subsection (3)(a) is subject to Section 32A-1-401.

4108 (4) The division shall:

4109 (a) (i) provide alcohol training and education seminars; or  
4110 (ii) certify one or more seminar providers;

4111 (b) establish the curriculum for an alcohol training and education seminar that includes  
4112 the following subjects:

4113 (i) (A) alcohol as a drug; and  
4114 (B) alcohol's effect on the body and behavior;

4115 (ii) recognizing the problem drinker or signs of intoxication;

4116 (iii) an overview of state alcohol laws related to responsible beverage sale or service, as  
4117 determined in consultation with the Department of Alcoholic Beverage Control;

- 4118 (iv) dealing with the problem customer, including ways to terminate sale or service; and  
4119 (v) for those supervising or engaging in the retail sale of alcoholic beverages for  
4120 consumption on the premises of a licensee, alternative means of transportation to get the  
4121 customer safely home;
- 4122 (c) recertify each seminar provider every three years;
- 4123 (d) monitor compliance with the curriculum described in Subsection (4)(b);
- 4124 (e) maintain for at least five years a record of every person who has completed an  
4125 alcohol training and education seminar;
- 4126 (f) provide the information described in Subsection (4)(e) on request to:
- 4127 (i) the Department of Alcoholic Beverage Control;
- 4128 (ii) law enforcement; or
- 4129 (iii) a person licensed by the state or a local government to sell alcoholic beverages;
- 4130 (g) provide the Department of Alcoholic Beverage Control on request a list of any  
4131 seminar provider certified by the division; and
- 4132 (h) establish a fee amount for each person attending an alcohol training and education  
4133 seminar that is sufficient to offset the division's cost of administering this section.
- 4134 (5) The board shall by rule made in accordance with Title 63, Chapter 46a, Utah  
4135 Administrative Rulemaking Act:
- 4136 (a) define what constitutes under this section an individual who:
- 4137 (i) manages operations at the premises of a licensee engaged in the retail sale of  
4138 alcoholic beverages for consumption on the premises of the licensee;
- 4139 (ii) supervises the serving of alcoholic beverages to a customer for consumption on the  
4140 premises of a licensee;
- 4141 (iii) serves alcoholic beverages to a customer for consumption on the premises of a  
4142 licensee;
- 4143 (iv) directly supervises the sale of beer to a customer for consumption off the premises  
4144 of an off-premise retailer beer licensee; or
- 4145 (v) sells beer to a customer for consumption off the premises of an off-premise beer

- 4146 retailer licensee;
- 4147 (b) establish criteria for certifying and recertifying a seminar provider; and
- 4148 (c) establish guidelines for the manner in which an instructor provides an alcohol
- 4149 education and training seminar.
- 4150 (6) A seminar provider shall:
- 4151 (a) obtain recertification by the division every three years;
- 4152 (b) ensure that an instructor used by the seminar provider:
- 4153 (i) follows the curriculum established under this section; and
- 4154 (ii) conducts an alcohol training and education seminar in accordance with the
- 4155 guidelines established by rule;
- 4156 (c) ensure that any information provided by the seminar provider or instructor of a
- 4157 seminar provider is consistent with:
- 4158 (i) the curriculum established under this section; and
- 4159 (ii) this section;
- 4160 (d) provide the division with the names of all persons who complete an alcohol training
- 4161 and education seminar provided by the seminar provider;
- 4162 (e) (i) collect a fee for each person attending an alcohol training and education seminar
- 4163 in accordance with Subsection (2); and
- 4164 (ii) forward to the division the portion of the fee that is equal to the amount described in
- 4165 Subsection (4)(h); and
- 4166 (f) issue a certificate to an individual that completes an alcohol training and education
- 4167 seminar provided by the seminar provider.
- 4168 (7) (a) If after a hearing conducted in accordance with Title 63, Chapter 46b,
- 4169 Administrative Procedures Act, the division finds that a seminar provider violates this section or
- 4170 that an instructor of the seminar provider violates this section, the division may:
- 4171 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;
- 4172 (ii) revoke the certification of the seminar provider;
- 4173 (iii) require the seminar provider to take corrective action regarding an instructor; or

(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days from the date the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Section 43. Section **76-9-701** is amended to read:

**76-9-701. Intoxication -- Release of arrested person or placement in detoxification center.**

(1) A person is guilty of intoxication if ~~[he]~~ the person is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger ~~[himself]~~ the person or another, in a public place or in a private place where ~~[he]~~ the person unreasonably disturbs other persons.

(2) (a) A peace officer or a magistrate may release from custody ~~[an individual]~~ a person arrested under this section if ~~[he]~~ the peace officer or magistrate believes imprisonment is unnecessary for the protection of the ~~[individual]~~ person or another~~[-or a]~~.

(b) A peace officer may take the arrested person to a detoxification center or other special facility as an alternative to incarceration or release from custody.

(3) When a person who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section:

(a) if the violation is the person's first violation of this section, the court may suspend the person's driving privileges; or

(b) if the violation is the person's second or subsequent violation of this section, the court shall suspend the person's driving privileges.

~~[(3)]~~ (4) When a person who is at least 13 years old, but younger than 18 years old, is found by ~~[the]~~ a court to have violated this section, the provisions regarding suspension of the driver's license under Section 78-3a-506 apply to the violation.

4202           ~~[(4)]~~ (5) When the court ~~[has issued]~~ issues an order suspending a person's driving  
4203 privileges for a violation of this section, the person's driver license shall be suspended under  
4204 Section 53-3-219.

4205           ~~[(5)]~~ (6) An offense under this section is a class C misdemeanor.

4206           Section 44. Section **78-3a-506** is amended to read:

4207           **78-3a-506. Suspension of license for certain offenses.**

4208           (1) This section applies to minors who are at least 13 years of age when found by the  
4209 court to be within its jurisdiction by the commission of any offense under:

4210           (a) Section 58-37-8 ~~[or]~~;

4211           (b) Section 32A-12-209~~[-]~~;

4212           (c) Section 32A-12-209.5;

4213           (d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act~~[-]~~;

4214           (e) Title 58, Chapter 37b, Imitation Controlled Substances~~[-]~~; or

4215           (f) Subsection 76-9-701(1).

4216           (2) If the court hearing the case determines that the minor committed an offense under  
4217 Section 58-37-8 or Title 58, Chapter 37a or 37b, the court shall prepare and send to the Driver  
4218 License Division of the Department of Public Safety an order to suspend that minor's driving  
4219 privileges.

4220           (3) If the court hearing the case determines that the minor violated Section  
4221 32A-12-209, Section 32A-12-209.5, or Subsection 76-9-701(1), and the violation is the  
4222 minor's:

4223           (a) first violation, the court may suspend the minor's driving privileges; or

4224           (b) second or subsequent violation, the court shall suspend the minor's driving  
4225 privileges.

4226           (4) ~~[When]~~ A minor's license shall be suspended under Section 53-3-219 when a court  
4227 ~~[has issued]~~ issues an order suspending ~~[a]~~ the minor's driving privileges for a violation of:

4228           (a) Section 32A-12-209 ~~[or]~~;

4229           (b) Section 32A-12-209.5;

4230 (c) Section 58-37-8[-];

4231 (d) Title 58, Chapter 37a or 37b[-]; or

4232 (e) Subsection 76-9-701(1)[-, the minor's license shall be suspended under Section

4233 ~~53-3-219~~].

4234 (5) When the Department of Public Safety receives the arrest or conviction record of a

4235 person for a driving offense committed while his license is suspended under this section, the

4236 department shall extend the suspension for a like period of time.

4237 Section 45. **Repealer.**

4238 This bill repeals:

4239 Section **59-16-101, Tax basis -- 13% rate -- Collection -- Disposition of revenues.**

4240 Section **59-16-102, Action for collection of tax -- Limit for refund or credit of tax.**

4241 Section 46. **Effective date.**

4242 This bill takes effect on April 30, 2007, except that:

4243 (1) the amendments to Section 32A-1-122 in this bill take effect on July 1, 2007; and

4244 (2) the repeal of the following take effect on July 1, 2007:

4245 (a) Section 59-16-101; and

4246 (b) Section 59-16-102.